

ZONING BYLAW AMENDMENTS

ARTICLE: 39 MBTA Communities Zoning Bylaw; Sponsor: Planning Board

To see if the Town will vote to amend Chapter 210, Zoning Bylaws to insert the following language after Article XXXV, Neighborhood Mixed Use District and to amend the Zoning Map to include the MBTA Communities Multi-Family Overlay District:

ARTICLE XXXVI MBTA Communities Multi-Family Overlay District (MCMOD) Bylaw

§ 210-251. Purpose and Intent.

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). This zoning provides for as of right multi-family housing to accomplish the following purposes:

- A.** Encourage the production of a variety of housing sizes and typologies to provide equal access to new housing throughout the community for people with a variety of needs and income levels.
- B.** Locate housing within walking distance of public transit and other amenities to promote general public health, reduce the number of vehicular miles traveled, support economic development, and meet community-based environmental goals, including reducing greenhouse gasses and improving air quality.
- C.** Support and encourage further public investment in public transit and pedestrian- and bike-friendly infrastructure.
- D.** Increase the municipal tax base through private investment in new residential developments.

§ 210-252. Establishment and Applicability.

This MCMOD is an overlay district having a land area of approximately 58.4 acres in size that is superimposed over the underlying zoning district(s) and is shown on the Zoning Map.

A. Applicability of MCMOD.

An applicant may develop multi-family housing located within a MCMOD in accordance with the provisions of this Article.

B. Subdistricts.

The MCMOD is composed of two (2) subdistricts, as defined by the Assessor Parcel numbers below and shown on the MBTA Communities Multi-family Overlay District (MCMOD) Map.

(1) Upper Cedar Street Subdistrict

Map R4 Block 8 Lot 0
Map R4 Block 17 Lot 0
Map R4 Block 12 Lot 0
Map R4 Block 20 Lot 0

(2) Downtown Subdistrict

Map U16 Block 80 Lot 0	Map U16 Block 144 Lot 0
Map U16 Block 85 Lot 0	Map U16 Block 145 Lot 0
Map U16 Block 86 Lot 0	Map U16 Block 146 Lot 0
Map U16 Block 86 Lot A	Map U16 Block 147 Lot 0
Map U16 Block 87 Lot 0	Map U16 Block 148 Lot 0
Map U16 Block 87 Lot A	Map U16 Block 149 Lot 0
Map U16 Block 88 Lot 0	Map U16 Block 151 Lot 0
Map U16 Block 115 Lot 0	Map U16 Block 152 Lot 0
Map U16 Block 116 Lot 0	Map U16 Block 153 Lot 0
Map U16 Block 117 Lot 0	Map U16 Block 153 Lot 4
Map U16 Block 118 Lot 0	Map U16 Block 220 Lot 0
Map U16 Block 121 Lot 0	Map U16 Block 221 Lot 0
Map U16 Block 124 Lot 0	Map U16 Block 222 Lot 0
Map U16 Block 125 Lot 0	Map U16 Block 223 Lot 0
Map U16 Block 127 Lot 0	Map U16 Block 250 Lot 0
Map U16 Block 128 Lot 0	Map U16 Block 254 Lot 0
Map U16 Block 129 Lot 0	Map U16 Block 255 Lot 0
Map U16 Block 130 Lot 0	Map U16 Block 256 Lot 0
Map U16 Block 131 Lot 0	Map U16 Block 257 Lot 0

C. Underlying Zoning.

The MCMOD is an overlay district superimposed on underlying zoning districts. The regulations for use, dimension, 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 or by special permit in the MCMOD. Uses that are not identified in Section 210-254 are governed by the requirements of the underlying zoning district(s).

§ 210-253. Definitions.

For purposes of this Article, the following definitions shall apply to MCMOD developments. Where the definitions contained herein differ from those in MGL 40A, Section 3A, the definitions contained in MGL 40A, Section 3A shall be used:

Affordable housing unit. A dwelling unit that qualifies as a Local Initiative Unit under the Commonwealth's Local Initiative Program (760 CMR 45.00) and meets the requirements of a subsidized housing unit for purposes of listing in the Subsidized Housing Inventory under GL. c.40B §§ 20-23.

Affordable housing. Housing that contains Affordable Units as defined by this Article.

Applicant. A person, business, or organization that applies for a building permit, Site Plan Review, or Special Permit.

As-of-right. Development that may proceed under the Zoning Bylaw in place at the time of application without the need for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval.

Compliance Guidelines. Compliance Guidelines for Multi-Family Zoning Districts Under Section 3A, issued by EOHLC, as they exist on the date of adoption of this bylaw or may be revised or amended from time to time.

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.

EOHLC. The Massachusetts Executive Office of Housing and Livable Communities (formerly known as Department of Housing and Community Development, or DHCD), or any successor agency.

Mixed-use development. Development containing a mix of residential uses and non-residential uses, including commercial, institutional, industrial, or other uses.

Multi-family housing. A building with three or more residential dwelling units or two or more buildings on the same lot with more than one residential dwelling unit in each building.

Multi-family zoning district. A zoning district, either a base district or an overlay district, in which multi-family housing is allowed as of right.

Open Space. Open space shall consist of landscaping, naturally vegetated areas, trails, and/or shared open areas with permeable hardscape. All open space must be an outdoor area on the ground, outside of the building footprints, which is open to the sky and which is designed and used for outdoor living and/or recreation and shall not include parking or vehicle circulation areas. Vegetated and/or landscaped setbacks may be included as Open Space.

Parking, structured. A structure in which vehicle parking is accommodated on multiple stories; a vehicle parking area that is underneath all or part of any story of a structure; or a vehicle parking area that is not underneath a structure, but is entirely covered, and has a parking surface at least eight feet below grade. Structured Parking does not include surface parking or carports, including solar carports.

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.

Section 3A. Section 3A of the Zoning Act.

Special permit granting authority. The Special Permit Granting Authority shall include the Select Board, Board of Appeals, or the Planning Board, as designated by the Zoning Bylaw for the issuance of special permits.

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.

§ 210-254. Permitted Uses.

A. Uses Permitted As-of-Right. The following uses are permitted as-of-right within the MCMOD.

(1) Multi-family housing.

B. Uses Permitted by Special Permit. The following uses require a Special Permit from the Planning Board.

(1) Mixed-use development. Uses that may be allowed in a mixed-use development are as follows:

a. Ground Floor: Community space; Educational uses; Personal services; Retail; Experiential retail, including retail associated with dance or exercise studios, music studios, photography studios, or other combination of education, services, and retail; Restaurant, café, and other eating establishments without a drive-through; Office, professional office, medical and dental offices, and co-working space Artists' studios, maker space, and small-scale food production (no more than 5,000 sf), and retail associated with each use.

b. Any Floor: Residential.

C. Accessory Uses. The following uses are considered accessory as-of-right to any of the by-right or permitted uses in Section 210-254.A or 210-254.B.

(1) Parking, including surface parking and parking within a structure such as an above ground or underground parking garage or other building on the same lot as the principal use.

(2) Any use meeting the definition of "Accessory Use" under § 210-4 of this Chapter.

§ 210-255. Dimensional Standards.

A. Dimensional Standards.

Notwithstanding anything to the contrary in this Zoning Bylaw, the dimensional requirements applicable in the MCMOD are as follows:

(1) Upper Cedar Street Subdistrict

- a. Minimum Lot Size: 15,000 square feet.
- b. Maximum Height: 40 feet.
- c. Minimum Open Space: 30%.
- d. Floor Area Ratio: N/A.
- e. Maximum Building Coverage: 45%.
- f. Minimum Frontage: 100 feet.
- g. Front Yard Setback: 40 feet.
- h. Side Yard Setback: 10 feet.
- i. Rear Yard Setback: 20 feet.

(2) Downtown Subdistrict

- a. Minimum Lot Size: 5,000 square feet.
- b. Maximum Height: 35 feet.
- c. Minimum Open Space: None.
- d. Floor Area Ratio: N/A.
- e. Maximum Building Coverage: 75%.
- f. Minimum Frontage: 50 feet.
- g. Front Yard Setback: 5 feet.
- h. Side Yard Setback: 0 feet.
- i. Rear Yard Setback: 20 feet.

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

C. Exceptions. The limitation on height of buildings shall not apply to chimneys, ventilators, mechanical equipment, towers, silos, or spires, whose features are in no way used for human occupancy and do not constitute more than 25% of the ground floor area (GFA) of the building.

D. Exceptions - Renewable Energy Installations. The Planning Board or Special Permit Granting Authority may waive the height and setbacks in Section 210-255.A. Dimensional Standards to accommodate the installation of solar photovoltaic, solar thermal, living, and other eco-roofs, energy storage, and air-source heat pump equipment. Such installations shall not create a significant detriment to abutters in terms of noise or shadow and must be appropriately integrated into the architecture of the building and the layout of the site. The installations shall not provide additional habitable space within the development.

E. Planning Board Authority to Waive Provisions

The Planning Board shall have the authority to waive provisions of Section 210-255.A, upon a determination that such action is in the public interest and a waiver would be consistent with the purpose and intent of this Article.

§ 210-256. Off-Street Parking.

These parking requirements are applicable to development in the MCMOD.

A. Number of Parking Spaces. The following **maximum** number of off-street parking spaces shall be permitted by use, either in surface, garage, or other structured parking:

- (1) Multi-family: 1.25 parking spaces per dwelling unit.
- (2) Mixed-Use/Commercial (non-residential): 2 parking spaces per 1,000 sf GFA.

B. Bicycle Parking. The following **minimum** number of covered bicycle parking spaces shall be provided by use:

- (1) Multi-family: 1 space per dwelling unit.
- (2) Mixed-Use/Commercial (non-residential): 2 spaces per 1,000 sf GFA.

C. Bicycle Storage. For a multi-family development of 25 units or more, or a mixed-use development of 25,000 square feet or more, at least 25% of the required bicycle parking spaces shall be covered and integrated into the structure(s) of the building(s).

D. Electric Vehicle Parking. Where applicable, the proposed development shall comply with Section 210-124.1 of the Zoning Bylaw.

E. Shared Parking within a Mixed-Use Development. Parking requirements for a mix of uses on a single site may be adjusted through the Site Plan Review process, if the applicant can demonstrate that shared spaces will meet parking demand by using accepted methodologies.

§ 210-257. General Development Standards.

A. Applicability. Development standards in the MCMOD are applicable to all multi-family development within the MCMOD. These standards are components of the Site Plan Review process in Section 210-259, Site Plan Review.

B. Site Design.

- (1) **Connections.** Sidewalks shall provide direct connections among building entrances, the public sidewalk (if applicable), bicycle storage, and parking. Additionally, sidewalks shall be provided along the entire frontage of the subject property along existing public ways. The Planning Board may approve alternative provisions or waive the requirements of this Standard in situations where sidewalk construction or use is not feasible or practical.
- (2) **Vehicular access.** Where feasible, curb cuts shall be minimized, and shared driveways encouraged.
- (3) **Open Space.**
 - a. Within the Upper Cedar Street Sub-district, a minimum of thirty percent (30%) of the parcel shall be provided as open space.
 - b. MCMOD developments in the Downtown Subdistrict may provide common space for residents as part of the development, however, the open space requirement shall not apply to these developments.
 - c. Open space shall be used solely for recreation (active or passive), conservation, or agriculture purposes by residents and/or the public. Trails are considered an acceptable use. Where appropriate, multiple uses of open space are encouraged.
 - d. All landscaped and hardscaped areas shall be permanently maintained with proper care, so that residents may utilize these areas as designed.
 - e. Open space may not be used for components of sewage disposal systems serving the development, unless the areas containing these systems have been designed and constructed to support viable passive recreational opportunities, and that these passive recreational opportunities are allowed by the property owner/property manager.
 - f. The required setbacks shall be maintained in a landscaped or naturally vegetated state, intended to screen and buffer the development from abutting and neighboring uses and may be included within the open space. This vegetated setback requirement may be eliminated where the proposed development abuts existing permanent open space.
- (4) **Screening for Parking.** Surface parking adjacent to a public sidewalk or residentially-zoned land shall be screened by a landscaped buffer of sufficient width to allow the healthy establishment of native trees, shrubs, and/or perennials, but no less than ten feet. The buffer may include a fence or wall of no more than six feet in height unless there is a significant grade change between the parking and the sidewalk.
- (5) **Parking Surface Materials.** The parking surface may be concrete, asphalt, bricks, or pavers, including pervious materials but not including grass or soil not contained within a paver or other structure.
- (6) **Plantings.** Plantings shall only include species that are native or adapted to the region. Plants on the Massachusetts Prohibited Plant List, as may be amended, shall be prohibited.
- (7) **Lighting.** On-site lighting shall conform to the provisions of Section 210-136.1.N of the Zoning Bylaw.

- (8) **Mechanicals.** Mechanical equipment at ground level shall be screened by fencing and/or plantings, or a combination thereof. Rooftop mechanical equipment shall be screened if visible from a public right-of-way.
- (9) **Dumpsters.** Dumpsters shall be screened by fencing and/or plantings, or a combination thereof. Where possible, dumpsters or other trash and recycling collection points shall be located within the building.
- (10) **Stormwater management.** The proposed stormwater management system for the development shall conform to strategies that demonstrate compliance of the construction activities and the proposed project with the most current versions of the Massachusetts Department of Environmental Protection Stormwater Management Standards, the Massachusetts Stormwater Handbook, Massachusetts Erosion Sediment and Control Guidelines, and additional requirements under the Hopkinton MS4 Permit for projects that disturb more than one acre and discharge to the Town's municipal stormwater system. An Operations and Management Plan for both the construction activities and ongoing post-construction maintenance and reporting requirements shall be provided to the Planning Board.

C. Buildings: General.

- (1) **Position relative to principal street.** The primary building shall have its principal façade and entrance facing the principal street. See also Section 210-257.G. Buildings: Corner Lots.
- (2) **Entries.** Where feasible, entries shall be clearly defined and linked to a paved pedestrian network that includes the public sidewalk.

D. Buildings: Multiple buildings on a lot.

- (1) For a mixed-use development, uses may be mixed within the buildings or in separate buildings.
- (2) Parking and circulation on the site shall be organized to reduce the amount of impervious surface. Where possible, parking and loading areas shall be connected to minimize curb cuts onto public rights-of-way.
- (3) A paved pedestrian network shall connect parking to the entries to all buildings and the buildings to each other, as well as to the sidewalk along the frontage of the property, unless otherwise waived by the Planning Board.
- (4) The orientation of multiple buildings on a lot should reinforce the relationships among the buildings. All building façade(s) shall be treated with the same care and attention in terms of entries, fenestration, and materials.
- (5) The building(s) adjacent to the public street shall have a pedestrian entry facing the public street.

E. Buildings: Mixed-use development.

- (1) In a mixed-use building, access to and egress from the residential component shall be clearly differentiated from access to other uses. Such differentiation may occur by using separate entrances or egresses from the building or within a lobby space shared among different uses.
- (2) Paved pedestrian access from the residential component shall be provided to residential parking and amenities and to the public sidewalk, as applicable.
- (3) Materials for non-residential uses shall be stored inside or under cover and shall not be accessible to residents of the development.
- (4) Parking and circulation on the site shall be organized so as to reduce the amount of impervious surface. Where possible, parking and loading areas shall be connected to minimize curb cuts onto public rights-of-way.

F. Buildings: Shared Outdoor Space. Multi-family housing and mixed-use development shall have common outdoor space that all residents can access. Such space may be located in any combination of ground floor, courtyard, rooftop, terrace, or Open Space. Shared outdoor space within the footprint of a building shall not count towards the project's minimum Open Space requirement.

G. Buildings: Corner Lots. A building on a corner lot shall indicate a primary entrance either along one of the street-facing façades or on the primary corner as an entrance serving both streets.

- (1) Such entries shall be connected by a paved surface to the public sidewalk, if applicable.
- (2) All façades visible from a public right-of-way shall be treated with similar care and attention in terms of entries, fenestration, and materials.
- (3) Fire exits serving more than one story shall not be located on either of the street-facing façades.

H. Lots with Infill Buildings. If the adjacent buildings are set back at a distance that exceeds the minimum front yard requirements, infill buildings shall meet the requirements of Section 210-255. Dimensional Standards. Otherwise, infill buildings may match the setback line of either adjacent building, or an average of the setback of the two buildings to provide consistency along the street.

I. Buildings: Principal Façade and Parking. Parking shall be subordinate in design and location to the principal building façade.

- (1) **Surface parking.** Surface parking shall be located to the rear or side of the principal building. Parking shall not be located in the setback between the building and any lot line adjacent to the public right-of-way.
- (2) **Integrated garages.** The principal pedestrian entry into the building shall be more prominent in design and placement than the vehicular entry into the garage.

- (3) **Parking structures.** Building(s) dedicated to structured parking on the same lot as one or more multi-family buildings or mixed-use development shall be subordinate in design and placement to the multi-family or mixed-use building(s) on the lot.

J. Planning Board Authority to Grant Waivers. Upon the request of the Applicant and subject to conformance with Section 210-255. Dimensional Standards and the Compliance Guidelines, the Planning Board may waive the requirements of this Section 210-257. General Development Standards, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the MCMOD.

§ 210-258. Affordability Requirements

- A. Any development within the MCMOD shall conform to the requirements of Article XI, Inclusionary Development, of these Zoning Bylaws, with the exception that the MCMOD shall require 10% of the total units be established as affordable housing units and where fractional units are the result, the number of affordable units shall be rounded down to the nearest whole number where the calculation of 10% of the units results in a half-unit (0.5) or less. Where the calculation of 10% of the units results in more than a half-unit, the number of units shall be rounded up to the nearest whole number. For example, in MCMOD developments of 15 units, one affordable unit (as defined in Chapter 210) shall be created (1.5 units rounded down to one unit); in developments of 16 units, two affordable units shall be created (1.6 units rounded up to two units); and so on.
- B. In the event that the Executive Office of Housing and Livable Communities (EOHLC) determines that the calculation detailed above does not comply with the provisions of Section 3A, the following standard shall apply.

- (1) Any development within the MCMOD shall conform to the requirements of Article XI, Inclusionary Development, of these Zoning Bylaws, with the exception that the MCMOD shall require 10% of the total units be established as affordable housing units and where fractional units are the result, the number of affordable units shall be rounded down to the next whole number. For example, in MCMOD developments of 12 units, one affordable unit (as defined in Chapter 210) shall be created (1.2 units rounded down to one unit); in developments of 17 units, one affordable unit shall be created (1.7 units rounded down to one unit); and so on.

§210-259. Site Plan Review.

- A. **Applicability.** Site Plan Review is required for any project proposed within the MCMOD. An application for Site Plan Review shall be reviewed by the Permitting Authority for consistency with the purpose and intent of Sections 210-254. Permitted Uses through 210-258. Affordability.
- B. **Submission Requirements.** As part of any application for Site Plan Review for a project within the MCMOD, the Applicant must submit the following documents to the Planning Board:
 - (1) Application and fee for Site Plan Review.

- (2) Site plans that show the position of the building on the site, points of vehicular access to and from the site and vehicular circulation on the site, stormwater management, utilities, and landscape treatments, including any screening of adjacent properties, and other information commonly required by Municipality for Site Plan Review.
- (3) Elevations of the building(s) showing the architectural design of the building.
- (4) All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of one inch equals forty feet (1"=40') or larger, or at a scale as approved in advance by the Planning Board.
- (5) Narrative of compliance with the applicable design standards of this Article.

C. Timeline. The Planning Board shall hold a public hearing within 65 days of the filing of any application for a MCMOD Site Plan and shall file a decision within 90 days of the close of the hearing. Notice of the time, place, and subject matter of the public hearing shall be given by the Planning Board, at the expense of the Applicant, to the Applicant and to all owners of land abutting the land being the subject of such application as appearing on the most recent tax list on file at the Assessor's Office. In addition, the Planning Board shall also give notice of the time, place, and subject matter of the public hearing, at the expense of the Applicant, by advertisement in a newspaper of general circulation in the Town, once in each of two successive weeks, the first publication being not less than 14 days before the day of such hearing. The Planning Board may, when appropriate, seek the input of other municipal boards or officials. In general, site plan review should be completed no more than six months after the submission of the application, unless extended by written permission of the Applicant.

D. Site Plan Approval. Site Plan approval for uses listed in Section 210-254. Permitted Uses shall be granted upon determination by the Planning Board that the following conditions have been satisfied. The Planning Board may impose reasonable conditions, at the expense of the applicant, to ensure that these conditions have been satisfied.

- (1) The Applicant has submitted the required fees and information as set forth in Hopkinton's requirements for a Building Permit and this Section 210-259, Site Plan Review; and
- (2) The project as described in the application meets the development standards set forth in Section 210-257. General Development Standards, unless any requirements have been waived by the Planning Board.

E. Project Phasing. An Applicant may propose, in a Site Plan Review submission, that a project be developed in phases subject to the approval of the Planning Board, provided that the submission shows the full buildout of the project and all associated impacts as of

the completion of the final phase. However, no project may be phased solely to avoid the provisions of Section 210-258. Affordability Requirements.

Section 210-260. Severability.

If any provision of this Article is found to be invalid by a court of competent jurisdiction, the remainder of Article shall not be affected but shall remain in full force. The invalidity of any provision of this Article shall not affect the validity of the remainder of the Hopkinton Zoning Bylaw.

Pass any vote or take any act relative thereto.