

**Proposed Multi-Family Zoning Section to Comply with the MBTA Communities Act
Planning Board Review Draft, November 9, 2023**

8.4 MBTA Communities Multi-family Housing Overlay

8.4.1. 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). The MCMOD provides for as-of-right multi-family housing to accomplish the following purposes:

- 8.4.1.1. To increase the supply of housing in West Newbury.
- 8.4.1.2. To increase the diversity of housing in West Newbury so that it better meets the needs of people across age groups, household compositions, and income levels.
- 8.4.1.3. To ensure that multi-family housing minimizes harm to environmental, historic, and cultural resources.
- 8.4.1.4. To ensure that the design of sites and buildings for multi-family housing supports a good quality of life for occupants and abutters through:
 - a. efficient and attractive site circulation that balances the needs of all modes of travel,
 - b. environmentally sustainable public and private open spaces that fulfill specific ecological, recreational, or scenic functions,
 - c. durable buildings whose massing, and placement shapes human-scaled streets and open spaces while reflecting local building vernacular,
 - d. and parking that is convenient but that does not dominate the experience of the site.
- 8.4.1.5. To allow new homes in locations with adequate public infrastructure including streets, sidewalks, and water infrastructure.
- 8.4.1.6. To increase the municipal tax base through private investment in new residential developments.

8.4.1.7. To support the vibrancy of West Newbury’s village center by allowing new homes close to it.

8.4.2. Establishment and Applicability

8.4.2.1. The MCMOD is an overlay district with a land area of approximately ____ acres. It is superimposed over the underlying zoning district(s) and is shown on the Zoning Map.

8.4.2.2. Subdistricts. The MCMOD contains the following subdistricts which are shown on the Zoning Map:

a. Neighborhood

b. Mixed-Use

8.4.2.3. Applicability of MCMOD. An applicant may develop multi-family housing located within a MCMOD in accordance with the provisions of this **Section 8.4.**¹

8.4.2.4. The provisions of this section apply only to developments on land located within a MCMOD where the property owner has elected to comply with the requirements of the overlay district, rather than complying with those of the underlying zoning district.

8.4.2.5. Relationship to Underlying Zoning. Provisions of this section supersede those of the underlying zoning. If there is a conflict between the provisions of this section and provisions found elsewhere in the Zoning Bylaw, the provisions of this section shall apply. All other provisions of the Zoning Bylaw governing the respective underlying zoning district(s) shall remain in full force, except that no special permit shall be required for multi-family housing, or any accessory use typically associated with multi-family housing, in a MCMOD. Uses that are not identified in **Section 8.4** are governed by the requirements of the underlying zoning district(s).

8.4.3. Definitions.

¹ Note: Yellow highlights indicate cross-references to section numbers. They are included for the drafter’s convenience and will be removed for the final draft of the Bylaw.

For purposes of this **Section 8.4**, the following definitions shall apply.

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.

Compliance Guidelines. Compliance Guidelines for Multi-Family Zoning Districts Under Section 3A of the Zoning Act as further revised or amended from time to time.

Developable land. Land on which multi-family housing can be permitted and constructed. For purposes of these guidelines, developable land 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.

Developable public land. Any publicly-owned land that (i) is used by a local housing authority; (ii) has been identified as a site for housing development in a housing production plan approved by EOHLC; or (iii) has been designated by the public owner for disposition and redevelopment. Other publicly-owned land may qualify as developable public land if EOHLC determines, at the request of an MBTA community and after consultation with the public owner, that such land is the location of obsolete structures or uses, or otherwise is suitable for conversion to multi-family housing, and will be converted to or made available for multi-family housing within a reasonable period of time.

Development standards. Provisions of **Section 8.4.7 General Development Standards** made applicable to projects within the MCMOD.

EOHLC. The Massachusetts Executive Office of Housing and Livable Communities, DHCD's successor agency.

Excluded land. Land areas on which it is not possible or practical to construct multi-family housing. For purposes of these guidelines, excluded land is defined by reference to the ownership, use codes, use restrictions, and hydrological characteristics in MassGIS and consists of the following:

- (i) All publicly-owned land, except for lots or portions of lots determined to be developable public land.

- (ii) All rivers, streams, lakes, ponds and other surface waterbodies.
- (iii) All wetland resource areas, together with a buffer zone around wetlands and waterbodies equivalent to the minimum setback required by title 5 of the state environmental code.
- (iv) Protected open space and recreational land that is legally protected in perpetuity (for example, land owned by a local land trust or subject to a conservation restriction), or that is likely to remain undeveloped due to functional or traditional use (for example, cemeteries).
- (v) All public rights-of-way and private rights-of-way.
- (vi) 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.
- (vii) 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.

Gross density. A units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial, and other nonresidential uses.

Height, Building. The vertical distance measured between the mean elevation (average grade) where the foundation of the building meets the soil and the mid-point between the eaves and the ridge of a peaked roof, or the top of the structure of the highest roof beams of a flat roof, or the deck of a mansard roof.

Infeasible. Not technologically possible, or not economically practicable and achievable in light of best industry practices.

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. The space on a lot unoccupied by buildings or structures, not devoted to streets, driveways, off-street parking or loading spaces. Open space may include natural areas, fields used for agriculture or horticulture, facilities for low impact development stormwater management, wastewater leach fields, walkways and paths other than required sidewalks, off street bicycle paths, and facilities for outdoor use by the occupants of the lot such as swimming pools, tennis courts, patios, vegetable gardens, terraces and patios. When used in the context of Dimensional Standards, Open Space is expressed as a percentage of the total lot area.

Overlay District: A zoning district that is applied over one or more previously established zoning districts. An Overlay District may establish additional or alternative requirements for properties in the Overlay District that are different than the requirements in the underlying zoning district.

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

Setback. The minimum required distance from a lot line to any part of a principal or accessory building nearest such lot line. A setback shall be measured perpendicular (at a right angle) to the lot line.

Setback, Front. Setback required from a front lot line or street line. Any edge of a lot fronting on a street shall be considered a front lot line.

Setback, Rear. Setback required from a rear lot line.

Setback, Side. Setback required from a side lot line.

Story. That portion of a building contained between any floor and the floor or roof next above it, but not including the lowest portion if more than 1/2 that portion is below the mean finished grade of the ground adjoining the building. If a mezzanine floor area exceeds 1/3 of the area of the floor immediately below it, the mezzanine shall be deemed to be a story. An attic shall not be deemed to be a story if unfinished and without human occupancy.

Story, Half. A partial story under a gable, gambrel, or hip roof, the wall plates of which do not rise more than four feet above the floor on any two sides of such partial story.

Surface parking. 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.

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.

8.4.4. Permitted Uses

8.4.4.1. Uses Permitted As-of-Right, Neighborhood Subdistrict

The following uses are permitted as-of-right within the MCMOD, in the Neighborhood Subdistrict:

- a. Multi-family housing.
- b. Exempt uses as defined in the Zoning Act (MGL C. 40 §3)
 - a. Uses which are permitted in all districts per Section 4.2.
 - b. Uses which are permitted in Residential A, B, and C Districts per Section 4.3.2, except for the uses described in paragraphs:
 - i. 4.3.2.c.v.(4) (School buses)
 - ii. 4.3.2.c.v.(5). (Commercial vehicles which are unregistered or abandoned)
 - iii. 4.3.2.d. (Bed and Breakfast)

8.4.4.2. Uses Permitted As-of-Right, Mixed-Use Subdistrict

The following uses are permitted as-of-right within the MCMOD, in the Mixed-Use Subdistrict:

- a. All uses allowed in the Neighborhood Subdistrict
- b. Mixed-use development, including a mix of residential use and any of the following uses:

i. Retail store or service establishment, the principal activity of which shall be the offering of goods or services at retail within the building.

ii. Business or professional offices or banks, not including drive-in banks or standalone ATMs.

iii. Restaurants or other places for serving food within a structure, not including drive-in or fast food establishments.

iv. Parking areas or garages for use of employees, customers, or visitors.

8.4.4.3. Accessory Uses. The following uses are considered accessory to any of the permitted uses in Section 8.4 and are allowed as of right.

a. Surface parking as needed to support permitted uses on the lot.

b. Parking within a multi-family or mixed-use building at the ground floor level or below grade. Parking garages shall not have more than three (3) parking spaces per unit.

c. Solar panels installed above one or more parking spaces

d. Common buildings for accessory uses related to multi-family housing, including administration, maintenance facilities, shared storage, shared community spaces, and space for professional office or customary home occupation. The gross floor area of common buildings may not exceed 40% of the gross floor area of multi-family housing in the development project.

e. Accessory buildings and uses associated with a mixed-use building provided that outdoor business-related storage shall be located behind or beside the mixed-use building and shall be screened from view of abutting residential dwellings with shrubs or a fence at least four (4) feet in height.

f. Signs in compliance with **Section 6.4**.

8.4.4.4. Uses permitted with a Special Permit

The following uses may be permitted by a special permit granted by the Planning Board subject to appropriate conditions where such are deemed necessary to protect the neighborhood or the Town in accord with the provisions of Section 11.

a. A parking structure that is integrated into a mixed-use or multi-family building with more than one story of parking above the ground floor level of the building.

b. A standalone parking structure with more than one story of parking above grade.

c. The uses described in Section 4.3.3 may not be permitted as part of an application under the MCMOD.

d. Projects permitted under the MCMOD are exempt from Section 4.3.4 Uses permitted in the Residence B and C Districts with a Special Permit.

8.4.4.5. Land Division. The tract may be a subdivision or a division of land pursuant to G.L. c.41, s.81 P or may be permitted where intended as a condominium on land not so divided or subdivided.

8.4.4.6. Multiple-Buildings-on-a-Lot. In the MCMOD, lots may have more than one principal building.

8.4.5. Dimensional Standards

8.4.5.1. This **Section 8.4.5** established Dimensional Standards for all uses in the MCMOD. It overrides all provisions of Section 5. Dimensional Requirements, except as specified in **paragraph 8.4.5.10** below.

8.4.5.2. Table of Dimensional Standards. Notwithstanding anything to the contrary in this Zoning, the dimensional requirements applicable in the MCMOD are as follows:

Criteria	Dimension
Lot Size	
Required lot size to be eligible for development under the MCMOD (Minimum)	250,000 sq ft
Lot Size for New Lots Created under the MCMOD (Minimum)	No minimum
Height	
Stories (Maximum)	3
Feet (Maximum)	35 ft
Open Space (Minimum)	30%
Frontage (Minimum)	20 ft
Front Setback (Minimum)	5' (See 8.4.5.4)
Side Setback (Minimum)	7.5 ft
Rear Setback (Minimum)	10 ft
Gross Density (Maximum)	15 units/acre of Developable Land
Minimum Distance between Buildings	15'
District Transitional Buffer	30'

8.4.5.3. Setbacks, Applicability. Requirements for front, side, and rear yard setbacks apply to the principal building and all accessory buildings and structures on a lot, except for stairs, unenclosed porches with no more than forty-eight (48) square feet or floor area, bay or other projecting windows that are less than four (4) feet deep, or accessory buildings that are less than ten (10') in height and less than 120 square feet in total area.

8.4.5.4. Front Setbacks for Buildings on Main Street. Where a proposed building will front on Main Street, its front setback requirement shall be calculated by averaging the front setbacks of the four closest principal buildings to the development site on the same side of the street, plus or minus five feet.

8.4.5.5. Height Exceptions.

a. The height limits required by this section do not apply to: chimneys; antennae with support structure for personal use; flagpoles; ventilators; elevator machine rooms; mechanical equipment; towers, silos, spires, or other architectural features of buildings not used for human occupancy, not exceeding ten feet in height, and whose area is less than 10% of the principal building footprint. Elements that exceed the height limits required by this section must be screened from view or designed with the same level of detail and quality as the rest of the building.

b. Mixed-Use. The Planning Board may allow, by a waiver during Site Plan Review, up to five additional feet of height for a mixed-use project when the applicant demonstrates that additional height is necessary to accommodate a ground floor commercial use, or due to unusual characteristics of the terrain surrounding the building.

c. Renewable Energy Installations. The Site Plan Review Authority may waive the height and setbacks in Section 8.4.4.5 Dimensional Standards to accommodate the installation of solar photovoltaic, solar thermal, living roofs, 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.

8.4.5.6. The width of a lot shall be equal to at least ninety (90) percent of the required frontage.

8.4.5.7. A District Transitional Buffer must be maintained where the boundary of a MCMOD abuts a lot that existed at the time of adoption of this Section and that is not in a MCMOD.

a. Buildings and parking are not allowed in a District Transitional Buffer.

b. Vegetation in the District Transitional Buffer shall not be disturbed, destroyed or removed, except for normal maintenance of structures and landscapes approved as part of the project.

c. New buildings that are proposed within 150' of existing residential buildings should be screened by dense tree growth and understory vegetation of sufficient height and depth in all directions to create an effective year-round visual buffer.

8.4.5.8. Dimensions for Multiple-Buildings-On-A-Lot. When a project proposes multiple buildings on a lot, the minimum dimensional standards shall be as follows:

a. A building shall be no closer to the back edge of a sidewalk, or the back of a curb at the street edge, than the front setback requirement.

b. The side of any building shall be no closer to another building than twice the side setback.

c. The rear of any building shall be no closer to another building than twice the rear setback.

d. The minimum open space percentage shall be calculated against the developed area of the project.

8.4.5.9. Lot Access Through Legal Frontage. Frontage must provide access to the lot from the right of way counted for frontage unless otherwise approved by the Planning Board on a Definitive Plan submitted in accord with Chapter 41, General Laws or approved by the Planning Board in the same manner as a Definitive Plan. When a lot or lots has a minimum required frontage pursuant to the West Newbury Zoning Bylaw (or relief from such) on a street and there are no physical impediments for a vehicle to physically pass over the legal frontage onto the lot, the Planning Board may determine that there is adequate access. A valid Order of Conditions pursuant to MGL Ch. 131, Section 40 from the Conservation Commission allowing the crossing of a wetland to access a lot is sufficient for the Board to make this finding.

8.4.5.10. Uses Subject to the Dimensional Requirements of the Underlying Zoning. The following uses are allowed in a MCMOD and may be included in a common plan of development with multi-family housing or mixed-use development, but are subject to the dimensional standards of the underlying zoning district:

- a. The use of land or structures for religious purposes or for education purposes on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic, or by a religious sect or denomination or by a non-profit education corporation, except as provided in Section 3 of Chapter 40A of the General Laws as amended.
- b. Municipal Buildings and Use
- c. One (1) family dwelling
- d. Family Day Care in single family residential structure if a secure and fenced yard/outdoor play area of at least 3,000 square feet is provided.
- e. Boarding house.

8.4.6. Off-Street Parking

The provisions of Section 6.3 apply to development under the MCMOD with the following exceptions:

8.4.6.1. Number of parking spaces.

a. Not more than 1.5 off-street automobile parking spaces per Residential Dwelling Unit shall be required in the MCMOD. More than 3 automobile parking spaces per Residential Dwelling Unit shall not be allowed in the MCMOD, except by waiver from the Planning Board during Site Plan Review. On-street parking may be counted toward the required number of parking spaces with a waiver by the Planning Board during Site Plan Review.

b. Parking for Mixed-Use. The required number of parking spaces for a mix of uses on a single site shall be based on an evaluation, prepared by the applicant, of shared parking demand following the procedures of the Urban Land Institute (ULI) Shared Parking Manual (latest edition), the Institute of Transportation Engineers (ITE) Shared Parking Guidelines (latest addition), or other approved procedures determined by the Planning Board. A formal shared parking evaluation may be waived by the Planning Board during Site Plan Review where there is established experience with the land use mix and its impact is expected to be minimal.

c. A minimum of .25 covered bicycle parking spaces shall be provided per each dwelling unit that is not provided with a dedicated garage parking space. These covered bicycle parking spaces shall be located no further from the building entrance than the off-street vehicle parking spaces intended for use by the building's occupants.

d. A minimum of 1 bicycle parking space shall be provided per 1,000 sq ft of commercial use. The bicycle parking spaces shall be located no further from the principal entrance to the commercial use than the closest vehicle parking space.

8.4.6.2. The provisions of the *Regulations of the Planning Board of the Town of West Newbury Governing the Design, Construction and Maintenance of Off-Street Parking and Loading Areas*, March 22, 1982 shall in no way be construed as precluding development of multi-family housing by right. The Planning Board shall waive any provision of the *Regulations* that is not objective or that renders multi-family housing infeasible.

8.4.7. Exceptions from Provisions of the Underlying Zoning

8.4.7.1. Section 5.8. Lots in Two Districts does not apply to the MCMOD. Where a MCMOD boundary line divides a lot in single ownership at the time of adoption of this Section 8.4, the provisions of this Section only apply to that portion of a lot that is included in the MCMOD. The portion of such a lot that is not included in the MCMOD is subject to the underlying zoning, except that it may be used for stormwater infrastructure, wastewater infrastructure, and open space uses associated with development in the MCMOD. Streets and/or driveways developed under the provisions of a MCMOD may not be used to access single-family houses on the portion of such a lot that is not included in the MCMOD.

8.4.7.2. Exceptions from Section 8.2 Groundwater Protection Overlay District (GPOD)

a. The last sentence of Section 8.2.2. Applicability of GPOD Overlay, which reads “Uses prohibited in the underlying zoning districts shall not be permitted in the Groundwater Protection District,” does not apply to uses specifically allowed by this Section 8.4.

b. Paragraph c. of Section 8.2.8. Uses and Activities Requiring a Special Permit does not apply to projects permitted under MCMOD. Any use that will render impervious more than 15% or 2,500 square feet of any lot, whichever is greater shall be subject to Site Plan Review to ensure the use meets the following performance standards:

i. a system for groundwater recharge must be provided which does not degrade groundwater quality. For non-residential uses, recharge shall be by storm water infiltration basins or similar system covered with natural vegetation, and dry wells shall be used only where other methods are infeasible. For all non-residential uses, all such basins and wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner.

8.4.7.3. Exceptions from Section 9.8. Common Driveways

All of the provisions of Section 9.8 shall apply in the MCMOD, except as indicated below:

- a. A Common Driveway shall be allowed by Site Plan Approval in the MCMOD provided it fulfills the Purpose and standards found in Section 9.8.
- b. The number of lots or dwelling units served by a common driveway shall not be limited.
- c. A common driveway shall meet the design and construction standards found in Sections 4, 5, and the Construction Details Index of the Rules and Regulations Governing the Subdivision of Land, West Newbury, MA. Selection of an appropriate Road Type shall be determined based on anticipated traffic volumes per the definitions of Road Types found in the Subdivision Regulations.

8.4.8. General Development Standards

8.4.8.1. The following Development Standards are applicable to all multi-family development and all mixed-use developments within the MCMOD. These standards are components of the Site Plan Review process in **Section 8.4.11 Site Plan Review.**

8.4.8.2. Site Design.

- a. When a project includes multiple buildings on a lot, the applicant may request a waiver from the Planning Board to forgo Definitive Subdivision Approval. The Planning Board may grant the waiver if the application for Site Plan Approval includes all of the submittals typically required of a Definitive Subdivision and complies with the design and construction standards listed in Sections 4-6 of the Rules and Regulations Governing the Subdivision of Land, West Newbury, MA.
- b. Site designs that arrange streets into loops are preferred over dead end streets with cul de sacs.
- c. Where possible, buildings should be clustered into groups that share common open space.
- d. Pedestrian Connections. The project shall be served by a continuous network of sidewalks and pathways that provides direct connections between the public sidewalk (if applicable), building entrances, bicycle storage and parking, vehicle parking, and any open spaces intended for common use.
- e. Parking and circulation on the site shall be organized to minimize the amount of impervious surface. Where possible, parking and loading areas shall be connected.
- f. Vehicular access. Curb cuts shall be minimized and shared driveways are encouraged. More than one curb cut per building shall be permitted only when necessary to minimize traffic and safety impacts.
- g. The design of any sidewalk (i.e. width, grade, cross-slope, materials) must be maintained across any driveway to indicate that, although a vehicle may cross, the area traversed by a vehicle remains part of the sidewalk. The depth of the sidewalk materials must be capable of supporting the weight of a vehicle.

8.4.8.3. Open Space

- a. All open space shall serve a function, including preservation of natural features, provision of habitat, improving the scenic quality of a site, screening objectional features, stormwater management, recreation, or gathering.

b. Whether an open space is public or private shall be easily discernable through the use of fences, landscaping, and the physical relationship of open spaces to site circulation and nearby buildings.

c. Shared Outdoor Space. Where private open space is not provided for a dwelling unit, the residents of that dwelling unit shall be provided with access to usable common outdoor space. Usable common outdoor space can include, but is not limited to, building courtyards, rooftop open spaces, plazas, terraces, front yards if designed for use, parks, commons, and greens. Such outdoor space shall count towards the project's minimum Open Space requirement.

8.4.8.4. Parking

a. Parking should be located beside, behind, or within buildings. The Planning Board may issue a waiver for this requirement when site conditions make it infeasible to achieve.

b. Screening for Parking. Surface parking adjacent to a public sidewalk shall be screened up to a height of at least four (4) feet by a landscaped buffer of sufficient width to allow the healthy establishment of trees, shrubs, and perennials, but no less than five (5) wide. The buffer may include a fence or wall of no more than four (4) feet in height.

c. Parking Materials. The parking surface may be concrete, asphalt, decomposed granite, bricks, or pavers, including pervious materials but not including grass or soil not contained within a paver or other structure.

d. Garage doors shall be located on the side or rear of buildings. The Planning Board may issue a waiver for this requirement when site conditions make it infeasible to achieve.

i. If the sidewall of a garage faces a street or shared open space, it must include windows that are consistent in size and placement with windows in nearby living spaces.

ii. When located on the front façade of a building, a garage must be set back at least 2 feet from the front façade and the garage door may be no wider than 12 feet. Front-facing garage doors shall occupy no more than 1/3 of the front façade of a building.

8.4.8.5. Landscaping, Lighting, Screening

a. Plantings. Plantings shall include species that are native or adapted to the region. Plants on the Massachusetts Prohibited Plant List, as may be amended, shall be prohibited.

b. Plants selected shall be suitable for the given site conditions (soil, moisture, pollution, light) to minimize the need for irrigation, fertilizer, and pesticides.

c. Plantings must fulfill one or more of the following functions: green stormwater management, providing habitat for wildlife or pollinators, providing food for residents, or shaping outdoor spaces and must also provide visual interest through harmony and variation of the size, shape, color and/or texture of plants and/or their leaves, flowers, seed heads, fruits, stems and bark.

d. Lighting. Light levels shall be the minimum necessary to provide even and adequate visibility for pedestrians and vehicles. Light levels shall meet the minimum design guidelines defined by the Illuminating Engineering Society of North America (IESNA) and shall provide illumination necessary for safety and convenience while preventing glare and overspill onto adjoining properties and reducing the amount of skyglow.

e. Mechanicals. Mechanical equipment at ground level shall be screened by a combination of fencing and plantings. Rooftop mechanical equipment shall be screened.

f. Utility equipment like water meters, electric meters, gas meters, external heating or cooling units, or electrical transformers shall be set back at least five feet behind the front façade of adjacent buildings.

g. Dumpsters. Dumpsters shall be screened by a combination of fencing and plantings. Where possible, dumpsters or other trash and recycling collection points shall be located within buildings or behind them.

h. Stormwater management. Design and construction plans for the proposed project must demonstrate compliance 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, if applicable, additional requirements under the West Newbury MS4 Permit for projects that disturb more than one acre and discharge to West Newbury's municipal stormwater system, and an Operations and Management Plan for both the construction activities and ongoing post-construction maintenance and reporting requirements.

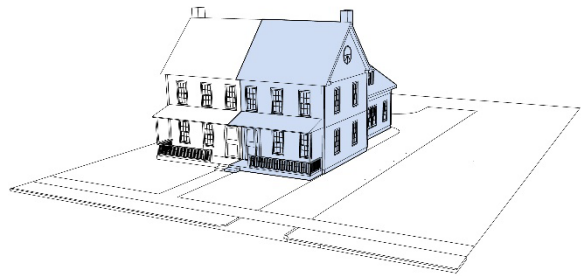
8.4.8.6. Buildings

a. Building Types

The following building types are allowed within the MCMOD:

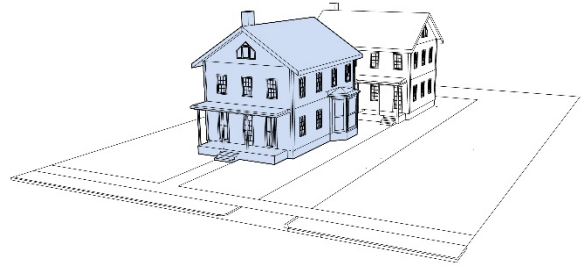
i. Two-family

(1) Illustration:



ii. 3-5 family with manor house or farmhouse massing

(1) Illustration:



iii. Stacked flats (3-10 units)

(1) [Illustration to come]

iv. Apartments (8-24 units)

(1) [Illustration to come]

v. Mixed-use (up to 20 units)

(1) [Illustration to come]

b. The principal façade of each building should face a street or shared open space and should include an operable pedestrian entrance (the front entry).

i. Front entries shall be easy to find on the front façade of a building. An entry shall have a prominent position and shall be indicated by a building element such as a porch, portico, stoop, recessed entry, or a noticeable door surround.

ii. Front entries shall be directly linked to a paved pedestrian network that includes the public sidewalk.

c. 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.

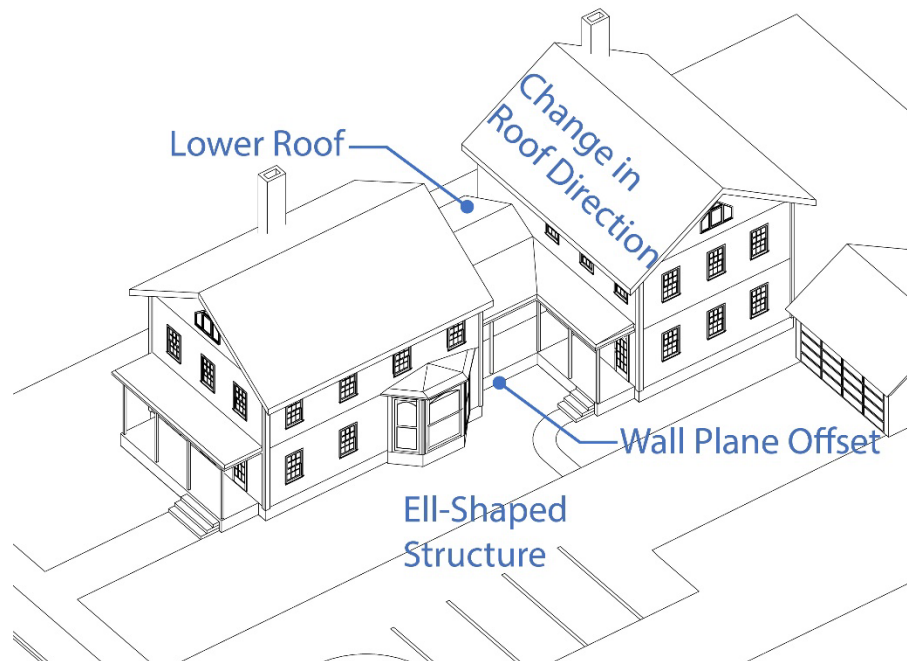
d. Building Massing. Buildings shall be broken down into masses that are similar in size to residential structures in the surrounding neighborhood. No mass should be longer than fifty feet in length. Buildings may be composed of multiple masses that are attached together. When a mass is attached another mass, the masses must meet the following design criteria:

i. Roofs: The roofs of adjacent masses must run in different directions, or have at least a 2' difference in height.

ii. Adjacent masses may be arranged in Ell or T shapes. The leg of the Ell or the arms of the T must extend at least 4' beyond an intersecting wall.

iii. Where the walls of adjacent masses are in the same plane, the walls must be offset by at least 2'.

e. Illustrative example of appropriate techniques for attaching masses:



f. Roofs:

i. Roofs longer than 40' in length must incorporate one or more of the following roof variations: a change of roof height of at least one foot, a change of roof pitch of at least 2:12, a change of the direction of roof pitch, or a dormer.

ii. Flat roofs are not allowed, except for on mixed-use buildings. A building with a flat roof must include an architectural feature that distinguishes the roof from the building's uppermost story, for example a parapet with a cornice, or a projecting overhang.

g. Windows:

i. Windows and doors should generally align vertically within each bay and horizontally across each story of a building. Alternative alignments may be approved by the Planning Board in buildings that create new architectural character.

ii. The variety of window and door sizes and proportions should be limited. No more than five different sizes or shapes of windows and doors should be used on a building façade.

iii. The majority of windows on the front façade of a building must be taller than they are wide.

iv. Generally, an upper story window should not be taller than windows below it.

h. Buildings should be oriented and arranged to shape the space along streets into a pedestrian scale environment and/or to shape shared open spaces.

i. All building façade(s) visible from a public right-of-way or a shared outdoor space shall be treated with the same care and attention in terms of entries, fenestration, and materials.

j. 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.

k. Exterior fire exits shall not be located on the front façade of a building.

8.4.8.7. Waivers. Upon the request of the Applicant and subject to compliance with the Compliance Guidelines, the Site Plan Review Authority may waive the requirements of this Section **8.4.8 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.]

8.4.9. Affordability Requirements.

8.4.9.1. **Section 6.1** Inclusionary Housing Requirements applies to all residential development in the MCMOD.

8.4.9.2. The Planning Board may waive some or all of the inclusionary housing provisions of Section 6.1 when the applicant demonstrates that such requirements are financially infeasible, using a methodology of evaluation that is acceptable to the Planning Board.

8.4.10. Bonuses.

8.4.10.1. When at least 20% of the dwelling units in a building are Affordable Housing Units, the number of allowed units in any building type may be increased by 1/3.

8.4.10.2. When an applicant designates the portion of a parcel that is not covered by the MCMOD as protected open space, the allowed gross density may be increased to 20 units per developable acre.

a. Any proposed protected open space, unless conveyed to the Town or its Conservation Commission for conservation purposes, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved exclusively for the purposes of open space indicated by this section, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

8.4.11. Site Plan Review

8.4.11.1. Applicability. Site Plan Review is required for all development proposed under the MCMOD.

8.4.11.2. The provisions of Section 11.3 apply to all development under the MCMOD with the following modifications:

a. For applications under the MCMOD, Section 11.3.7.1 is replaced with the following:

The Planning Board may make a Decision as follows:

i. Approval as Submitted: Approval based on a determination that the Application complies with the criteria and design performance standards set forth in this Bylaw and Section 8.4.8 General Development Standards.

ii. Approval with Conditions: Approval of the Application subject to reasonable conditions, modifications, and restrictions the Planning Board may deem necessary to ensure the health, safety, and general welfare of the community. The Planning Board may not impose any condition, modifications or restriction that would make it infeasible to develop multi-family housing that meets the standards of this Bylaw. Conditions must be consistent with the parameters established by EOHLC's *Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act*, as amended.

iii. Rejection of the Site Plan: The Planning Board may reject the Application because:

(1) the Application is incomplete, in that the submittal fails to furnish adequate information required for approval;

(2) the submittal, although proper in form, includes or creates an intractable problem so intrusive on the needs of the public in one regulated aspect or another that it cannot be adequately mitigated and the Planning Board has been unable to devise reasonable conditions to satisfy the problem with the plan.

Rejection of a Site Plan may only be issued in extreme cases after the Planning Board has made a substantial good faith effort to work with the Applicant to remedy the issues.

b. Notwithstanding the first paragraph (unnumbered) or **Section 11.3.6. Site Plan Review Guidelines**, an application under the MCMOD need not comply with “Section C, Development Guidelines and Standards” of “Section IV. Regulations Governing Site Plan Review” found in the *West Newbury Planning Board Regulations Governing the Conduct of Planning Board Functions, Meetings, and Hearings Special Permits, Site Plan Review, Scenic Road Application Guidelines*, as amended.

8.4.11.3. 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 Site Plan Review Authority, 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 8.4.9 Affordability Requirements**.

8.4.11.4. Adoption of Regulations. The Planning Board may adopt and amend, by simple majority vote, Design Standards or Design Guidelines, to augment the General Development Standards or Site Plan Review Criteria or guide interpretation of them. Such regulations must be objective and not subjective and may only address the scale and proportions of buildings, the alignment, width, and grade of streets and sidewalks, the type and location of infrastructure, the location of building and garage entrances, off street parking, the protection of significant natural site features, the location and design of on-site open spaces, exterior signs, and buffering in relation to adjacent properties. The regulations may contain graphics illustrating a particular standard or definition in order to make such standard or definition clear and understandable. The regulations shall be consistent with the purposes of this section and EOHLC's *Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act*, as amended.

8.4.12. Severability.

If any provision of this Section 8.4 is found to be invalid by a court of competent jurisdiction, the remainder of Section 8.4 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 8.4 shall not affect the validity of the remainder of the Town of West Newbury Zoning.