

**Proposed Multi-Family Zoning Section to Comply with the MBTA Communities Act  
Planning Board Public Hearing Draft, March 5, 2024-Version B**

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, abilities, 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. It is superimposed over the underlying zoning district(s) and is shown on the Zoning Map. It includes:

a. Parcel number 001U 0000 00380, otherwise known as 317 Main Street, with a land area of approximately 14.78 acres, and

b. Parcel number 0020 0000 00410, otherwise known as 187 Main Street, with a land area of approximately 19 acres.

8.4.2.2. Subdistricts.

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

i. Subdistrict A, which encompasses Parcel number 001U 0000 00380

ii. Subdistrict B, which encompasses Parcel number 0020 0000 00410

b. The provisions for both Subdistricts are the same except for those found in Section 8.4.5.2.a.

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.

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.

For purposes of this Section 8.4, the following definitions shall apply. All other specialized terms shall be defined by Section 2 of this Bylaw.

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.

Building. A structure having a roof or cover and intended for human occupancy.

Building Type, Apartment Building. A residential building containing dwelling units arranged around a central hallway. Apartment buildings typically have more than one story, but dwelling units do not typically span more than one story.

Building Type, Mixed-Use. A building containing both residential uses and non-residential uses, including, commercial, institutional, industrial, or other uses.

Building Type, Stacked Flats. A residential building with two to twenty-four residential dwelling units. Dwelling units may have individual entrances or may share an entrance, stairway and/or short hallway. The building may have entrances on multiple sides to serve groups of dwelling units. Dwelling units are typically stacked on top of each other but may occupy more than one story.

Building Type, 3-5 Family. A small multi-family residential building with three to five residential dwelling units. Dwelling units may have individual entrances or may share an entrance, stairway and/or short hallway. The building may have entrances on multiple sides to serve groups of dwelling units. Dwelling units may be side-by-side, above-and-below, front-to-back, or in another arrangement. Units may occupy more than one story. This building type includes townhouses which have the following characteristics: units are arranged side-by-side separated by common walls, units typically have narrow massing facing a street and may have more than one story, entries are typically on the narrow side of the unit and typically face a street or courtyard.

Building Type, Two-Family. A residential building in which two residential dwelling units are contained within a single free-standing structure. Units may be arranged side-by-side, above-and-below, front-to-back, or in another arrangement.

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.

Development Area. A portion of a tract designated by the Applicant. It shall encompass the areas to be disturbed, modified, and/or used for the proposed development, including building sites, buildings, structures, parking areas, streets, sidewalks, walkways, driveways, private yard areas, usable common outdoor spaces, utility areas, and infrastructure. In limited cases, land outside of the Development Area may be disturbed, modified, and/or used per Section 8.4.5.3.

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 Site. The land area encompassed in a development proposal regardless of the number or configuration of lots, land ownership, or municipal boundaries.

Development Standards. Provisions of Section 8.4.9 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. Per the Compliance Guidelines, land areas on which it is not possible or practical to construct multi-family housing. For purposes of the Compliance 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 designated development 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.

Residential Dwelling Unit: See "Dwelling Unit" in Section 2 of this Bylaw.

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 one or more standards.

#### 8.4.4. Permitted Uses

#### 8.4.4.1. Uses Permitted As-of-Right

The following uses are permitted as-of-right within the MCMOD:

- 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)
- c. Mixed-use development, provided it meets the following conditions:
  - i. It includes a mix of residential use and any of the following uses:
    - (1) Retail store or service establishment, the principal activity of which shall be the offering of goods or services at retail within the building.
    - (2) Business or professional offices or banks, not including drive-in banks or standalone ATMs.
    - (3) Restaurants or other places for serving food within a structure, not including drive-in or fast-food establishments.
    - (4) Parking areas or garages for use of employees, customers, or visitors.

ii. And, the mixed-use building is located within two hundred and seventy-five (275) feet of Main Street.

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

8.4.4.2. 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 all 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.

8.4.4.3. 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 accordance 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. Section 4.3.4 “Uses permitted in the Residence B and C Districts with a Special Permit” does not apply to Projects permitted under the MCMOD.

8.4.4.4. 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.

8.4.5. Designation of Development Area and Protected Open Space.

8.4.5.1. An applicant for a project under the MCMOD shall submit a plan that designates a development area and protected open space on the tract.

8.4.5.2. Development Area. The development area shall encompass the areas to be used for the proposed development, including building sites, buildings, structures, parking areas, streets, sidewalks, walkways, driveways, private yard areas, usable common outdoor spaces, utility areas, and infrastructure.

a. The development area shall be no larger than nine (9) acres in Subdistrict A and no larger than eight (8) acres in Subdistrict B.

b. Within a development area, the maximum gross density shall be fifteen (15) units per acre. The land area used to calculate gross density shall include only developable land within the designated development area.

c. No more than eighty-seven (87) multi-family residential dwelling units may be located within a development area.

d. There shall not be more than one designated development area per Subdistrict.

e. The development area shall, unless infeasible, be sited and shaped to enable development that:

- i. fulfills the Purpose of this Section and the Zoning Bylaw;
- ii. complies with the General Development Standards in Section 8.4.9;
- iii. arranges buildings into groups to create sub-neighborhoods;
- iv. provides a variety of building types;
- v. designs development visible from Main Street to reflect the design characteristics of existing buildings in the context, or hides development from view;
- vi. provides a mix of private and shared open spaces;
- vii. fits the natural terrain of the site, minimizing cut and fill; and
- viii. maintains significant natural features, including existing mature trees and existing buffers along the edges of the development area.

#### 8.4.5.3. Protected Open Space.

a. The protected open space shall be sited and shaped to preserve “Primary Conservation Areas” (such as wetlands, riverfront areas, and floodplains regulated by state or federal law), and minimize development in “Secondary Conservation Areas” (including unprotected elements of the natural landscape such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats and cultural features such as historic and archeological sites as well as scenic views and stone walls).

b. All areas within a tract that are not included in the designated development area shall be designated protected open space. 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 set forth herein, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

c. The protected open space shall be contiguous and may be considered contiguous if it is separated by a roadway or an accessory amenity. The Planning Board may waive this requirement for all or part of the required open space where it is determined that allowing non-contiguous open space will promote the goals of this Bylaw and/or protect identified primary and secondary conservation areas.

d. The protected open space may only be used for one or more of the following uses: wildlife habitat and conservation; historic preservation; education; outdoor education; recreation; park purposes; agriculture; horticulture; forestry; or a combination of these uses and shall be served by suitable access for such purposes. The Planning Board may permit a small portion of the protected open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space (i.e., pedestrian walks and bike paths).

e. Wastewater and stormwater management systems serving the development project may be located within the protected open space.

#### 8.4.5.4. Ownership of the Protected Open Space:

a. The protected open space shall, at the Planning Board's election, be conveyed in fee or easement to the following:

i. the Town or its Conservation Commission;

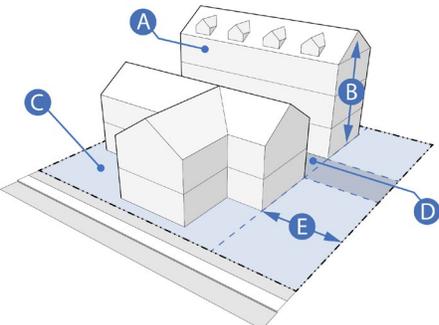
ii. a nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above; and

iii. a corporation or trust owned jointly or in common by the owners of lots within the development area. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the town an easement for this purpose. In such event, the town shall first provide fourteen (14) days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the town may perform it. Each individual deed, and the deed of trust or articles of incorporation, shall include provisions designed to affect these provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.

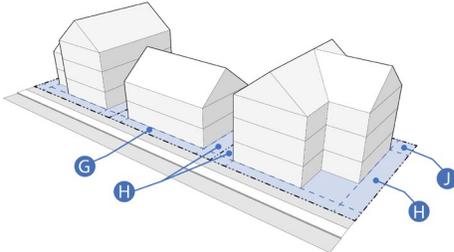
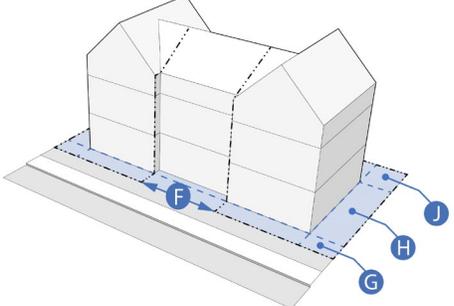
#### 8.4.6. Dimensional Standards

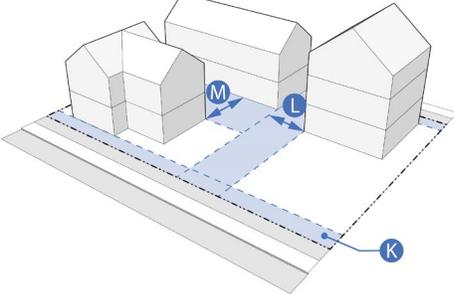
8.4.6.1. This Section 8.4.6 establishes Dimensional Standards for all uses in the MCMOD. It supersedes all provisions of Section 5. Dimensional Requirements, except as specified in paragraph 8.4.6.9 below.

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

	<b>Criteria</b>	<b>Dimension</b>
	<b>Standards for all Developments</b>	
		
	Lot Size for New Lots Created under the MCMOD (Minimum)	No minimum
	Building Height	
A	Stories (Maximum)	3
B	Feet (Maximum)	40 ft
C	Open Space (Minimum)	30%
	Gross Density (Maximum)	15 units/acre of Developable Land within the Development Area
D	Minimum Distance between Buildings	15 ft
E	District Transitional Buffer	30 ft

	<b>Criteria</b>	<b>Dimension</b>
	<b>Additional Standards for Developments with One Building per Lot</b>	
	<i>Diagram for Detached Buildings:</i>	

	Criteria	Dimension
	 <p data-bbox="792 533 1201 604"><i>Diagram for attached buildings (Townhouses):</i></p> 	
F	Frontage (Minimum)	20 ft
G	Front Setback (Minimum)	5 ft (See 8.4.6.5)
H	Side Setback (Minimum)	7.5 ft/0 ft if buildings are attached at the side lot line
J	Rear Setback (Minimum)	10 ft

	Criteria	Dimension
	<p data-bbox="808 1444 1205 1549"><b>Additional Standards for Developments with Multiple-Buildings-On-A-Lot</b></p>	
		

	<b>Criteria</b>	<b>Dimension</b>
	Frontage (Minimum)	Each lot must have legally and practically adequate vehicular access to a public way or a way approved under the subdivision regulations.
K	Minimum distance between a building and the back edge of a sidewalk, or the edge of a roadway that provides access to the building, whichever is greater.	5 ft (See 8.4.6.5)
L	Minimum distance between the side of any building and any other building	15' ft
M	Minimum distance between the rear of any building and any other building	20 ft

8.4.6.3. Gross Density Calculation. When calculating the allowed number of units based on maximum gross density, any fractional result shall be rounded up to the next whole number. For example, 15.1 units would be rounded up to 16 units.

8.4.6.4. 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 of floor area, bay or other projecting windows that are less than four (4) feet deep, or accessory buildings that are less than ten (10) feet in height and less than one hundred twenty (120) square feet in total area.

8.4.6.5. 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.

8.4.6.6. Building Height Exceptions.

a. The building 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 building 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 building 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 Planning Board may waive the building height and setbacks in Section 8.4.6.2 Dimensional Standards to accommodate renewable energy installations, including but not limited to 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.

8.4.6.7. 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 outside of the MCMOD, shall 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. The Planning Board may, by waiver during Site Plan Review, allow a fence or wall to be substituted for some or all of a vegetated screen, when doing so would advance the purposes of the MCMOD.

8.4.6.8. 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.

8.4.6.9. 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.

#### 8.4.7. Off-Street Parking

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

##### 8.4.7.1. Number of parking spaces.

a. Not more than one and a half (1 ½) off-street automobile parking spaces per Residential Dwelling Unit shall be required in the MCMOD. More than three (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 lot or development 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 one-quarter (1/4) 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 one (1) bicycle parking space shall be provided per one thousand (1,000) square feet 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.

8.4.7.2. 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 as-of-right. The Planning Board shall waive any provision of the *Regulations* that is not objective or that renders multi-family housing infeasible.

#### 8.4.8. Exceptions from Provisions of the Underlying Zoning

8.4.8.1. Exceptions from Section 8.1. Floodplain Overlay District. As-of-right development in the MCMOD shall not require a Special Permit to comply with the requirements of Section 8.1. All other provisions of Section 8.1 shall apply. To that end, for as-of-right development on the MCMOD:

a. The first sentence of the Section 8.1.7 "Permit Required" shall be revised to strike the words "a Special Permit" and replace them with "Site Plan Review."

b. The first sentence of Section 8.1.8, "Application Procedure" shall not apply.

c. Section 8.1.20. "Planning Board Findings" shall be replaced with the following text: "An as-of-right use in the MCMOD that is subject to the Floodplain Overlay District, shall comply with the following additional Development Standards:

i. Such proposals shall not increase potential damage caused by flood;

ii. All public utilities and facilities shall be located and constructed to minimize or eliminate flood damage;

iii. Adequate drainage shall be provided to reduce exposure to flood hazards;

iv. There shall be no volumetric loss of flood storage within the designated floodplain resulting in an increase in the BFE within the affected floodplain.”

8.4.8.2. 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 fifteen percent (15%) or two thousand five hundred (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.

8.4.8.3. 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 Review 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.

#### 8.4.9. General Development Standards

8.4.9.1. 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.

##### 8.4.9.2. Site Design.

a. When a project includes multiple buildings on a lot, the application for Site Plan Review must include the submittals typically required of a Definitive Subdivision and must comply with the design and construction standards listed in Sections 4-6 of the Rules and Regulations Governing the Subdivision of Land, West Newbury, MA. The Planning Board may waive submittal requirements and may modify design and construction standards by waiver via Site Plan Review, when the modifications would further the Purpose of the MCMOD.

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 and the pedestrian use is primary. The depth of the sidewalk materials must be capable of supporting the weight of a vehicle.

h. Site design shall maximize accessibility to building entrances and outdoor activity spaces for all users, by, for example, minimizing grade changes between a sidewalk and a building's ground floor elevation; or by providing walkways with a slope of 5% or less to address grade changes. Ramps, when necessary, should be fully integrated into the design of the site and building—not an afterthought.

#### 8.4.9.3. 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. Usable Common 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.

#### 8.4.9.4. Parking

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

b. Screening for Parking. A surface parking area with more than four parking spaces that is adjacent to a public sidewalk or a shared outdoor space shall be substantially 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. Surface parking lots containing over twenty (20) spaces shall have at least one shade tree per ten (10) parking spaces. Such trees shall be located either in the parking area or within ten (10) feet of it. There shall not be more than (20) parking spaces in a row without an intervening tree. At least five percent (5%) of the interior of the parking area shall be maintained with landscaping, including trees.

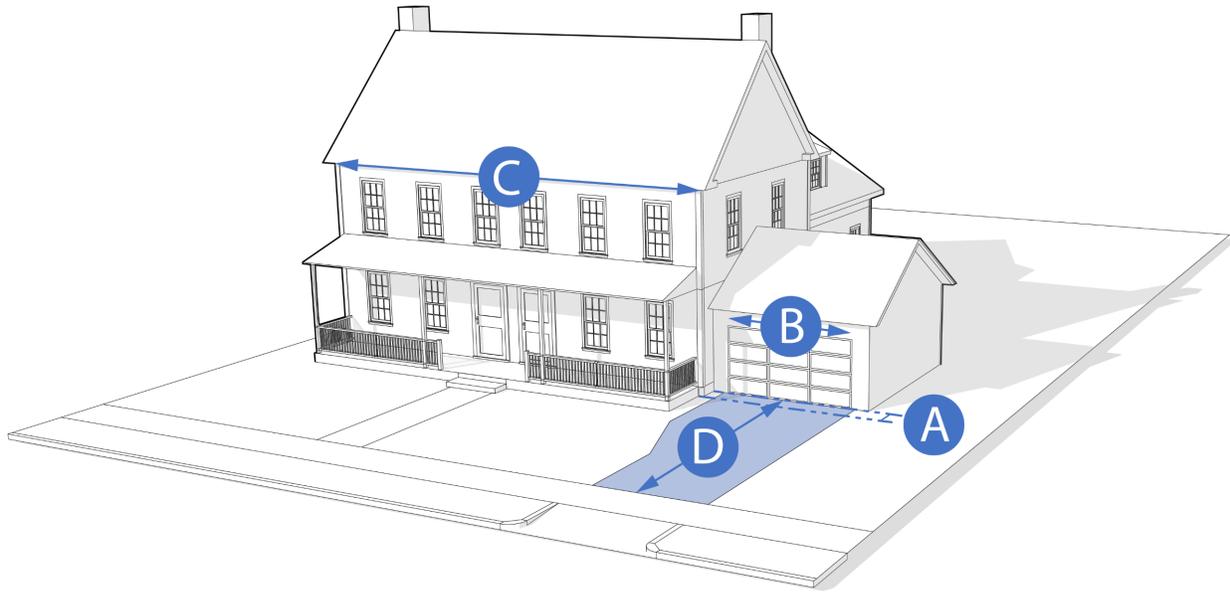
d. Parking Materials. The parking surface may be concrete, asphalt, decomposed granite, bricks, or pavers, including pervious materials but not including grass or soil not contained within a paver or other structure.

e. Every garage shall have a door. Garage doors shall be located on the side or rear of a building. 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 (A). A front-facing garage door may be no wider than 12 feet (B). Front-facing garage doors shall occupy no more than 1/3 of the front façade of a building (B/C). At least twenty (20) linear feet of backing space (D) must be provided between a garage and a sidewalk or street edge (whichever is less), unless the garage is accessed from an alley.



#### 8.4.9.5. Landscaping, Lighting, Mechanicals, Utilities, Dumpsters, Stormwater Management

- a. Plantings. Plantings shall be 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: supporting green stormwater management, providing habitat for wildlife or pollinators, providing food for residents, providing shade, or shaping outdoor spaces. The overall composition of plantings 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. Tree Planting. New trees that are required to be planted by this bylaw or required as part of a site plan review, shall meet the following standards.

i. Each tree shall be surrounded by fifty (50) contiguous square feet of soil surface area that is free of impervious surfaces and capable of infiltrating stormwater. The soil surface area shall not be less than three feet wide at any point. Trees shall be provided with adequate soil volume to enable healthy growth to maturity. The following minimum soil volumes are recommended: 600 cubic feet for a small tree, 800 cubic feet for a medium tree, 1,000 cubic feet for a large tree.

ii. Where possible, adjacent tree planting areas shall be connected to provide larger connected soil volumes for tree roots.

e. 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 minimizing the amount of skyglow.

i. Light Poles shall not exceed fifteen feet in height nor be installed within fifteen feet of the exterior boundaries of a development site.

ii. The color temperature (CCT) of outdoor lighting should be between 2200 K and 2700 K and shall not exceed 3000 K.

iii. Only full cutoff luminaires shall be used for illuminating outdoor spaces and parking areas. The light source shall be directed downward and away from adjacent residential structures.

iv. Outdoor Luminaires shall not exceed the following BUG rating, which define backlight (B), uplight (U), and glare (G) values: B2/U2/G2.

v. Bollard lighting may be used to light walkways and other landscape features. Bollard lighting shall cast downward.

- vi. Internally illuminated fascia, wall, roof, awning, or other building parts are prohibited.
  - vii. All nonessential exterior lighting associated with non-residential uses shall be turned off within thirty (30) minutes after the close of business or when the non-residential use is not in use.
- f. Mechanicals. Mechanical equipment at ground level shall be screened by a combination of fencing and plantings. Rooftop mechanical equipment shall be screened.
- g. Utilities. All electric, gas, telephone, and water distribution lines shall be placed underground except where bedrock, a high water table, or other unique conditions make this infeasible.
- h. 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.
- i. 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.
- j. Stormwater management. Design and construction plans for the proposed project must demonstrate compliance with the current versions of the Massachusetts Department of Environmental Protection Stormwater Management Standards, the Massachusetts Stormwater Handbook, Massachusetts Erosion Sediment and Control Guidelines, Town of West Newbury Stormwater Management Bylaw, and the Town of West Newbury Planning Board Stormwater Management Regulations as amended June 6, 2023.

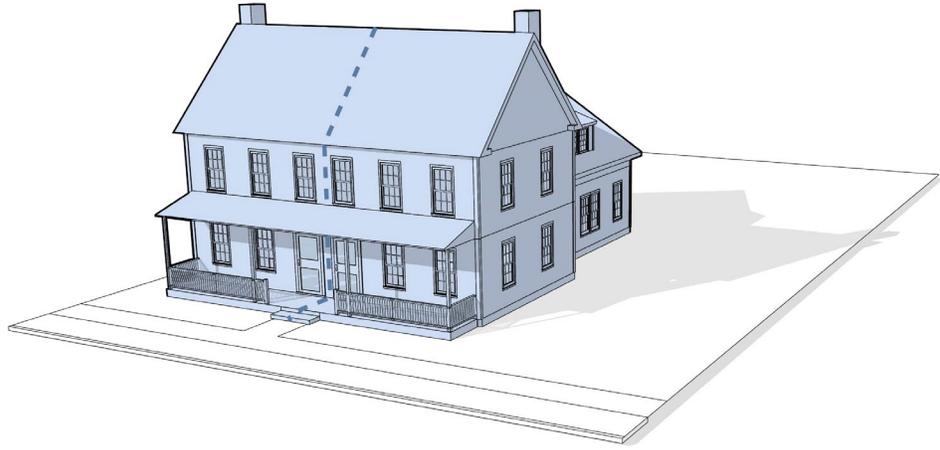
#### 8.4.9.6. Buildings

##### a. Building Types

The following building types are allowed within the MCMOD:

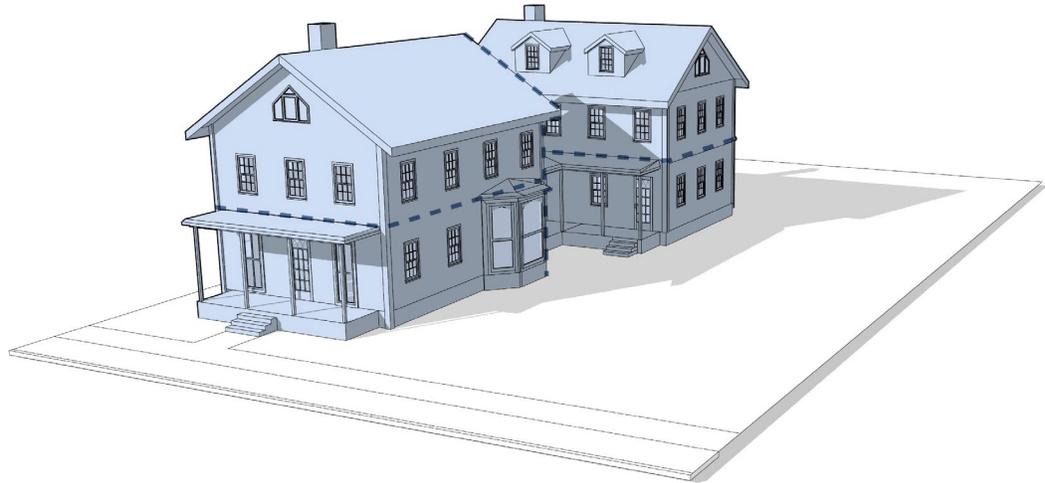
i. Two-family

(1) Illustration:



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

(1) Illustration:

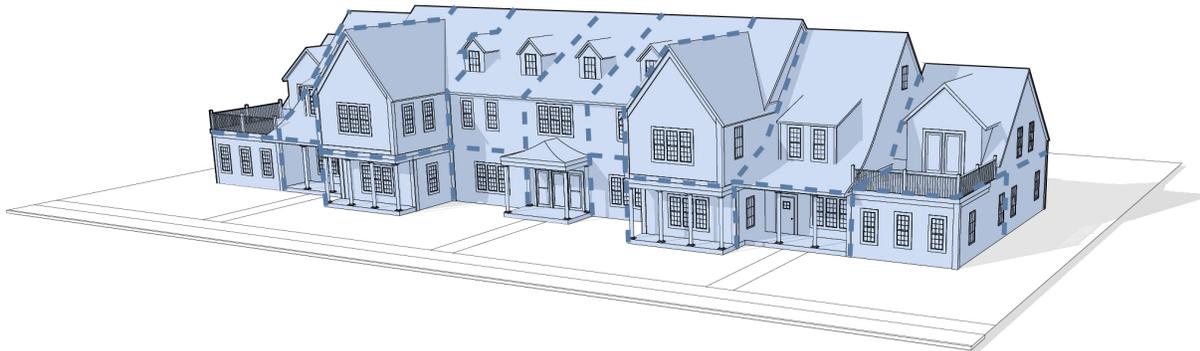


iii. Stacked flats (3-10 units)



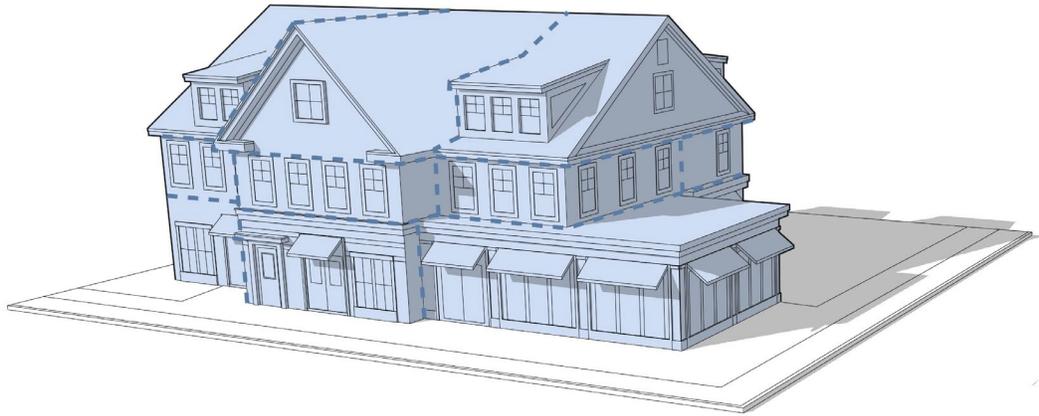
iv. Apartments (8-24 units)

(1) Illustration:



v. Mixed-use (up to 20 units)

(1) Illustration:



b. The principal façade of each building shall face a common driveway, street, or shared open space and shall 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.

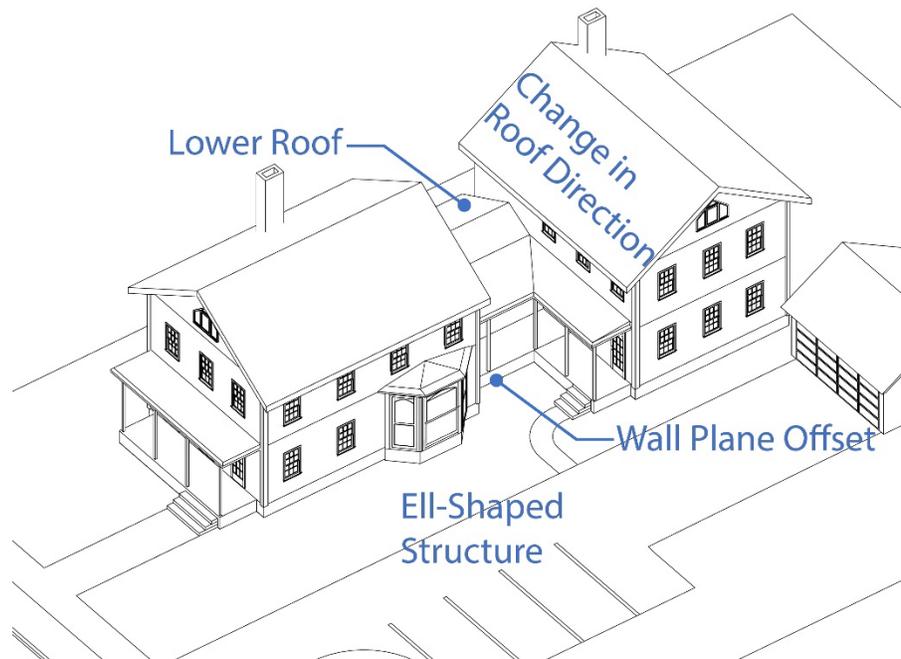
d. Building Massing. Buildings shall be broken down into masses that are similar in size to residential structures in the surrounding neighborhood. No mass should be longer than fifty feet in length. Buildings may be composed of multiple masses that are attached together. When a mass is attached another 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 two (2) foot 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 four (4) feet beyond an intersecting wall.

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

e. Illustrative example of appropriate techniques for attaching masses:



f. Roofs:

i. Roofs longer than fifty (50) feet 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.

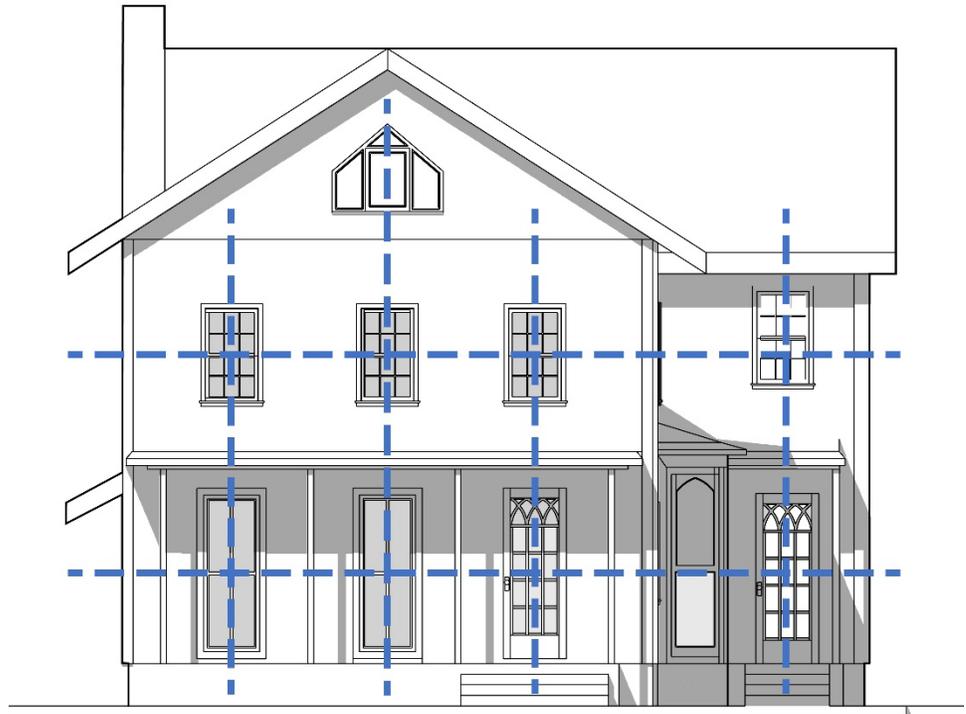
i. Roofs shall have a pitch and shape that is typical of historic building types in West Newbury, generally between 5:12 and 12:12.

ii. Low-slope roofs should be avoided, except for on secondary architectural features, such as roofs over entries, roof decks, cornices, parapets, and dormers, and only where a low slope roof is consistent with historic precedents of residential design in Essex County. Any roof with a pitch of 2:12 or less is considered a low-slope roof for the purposes of this paragraph.

iii. Roof dormers should cover no more than seventy-five percent (75%) of roof slope and shall be setback at least three feet from the bottom and sides of the roof.

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. Diagram:



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. Materials and Design Elements.

i. Materials chosen for exterior elements shall be consistent with the use of materials traditionally found in residential design in Essex County. Siding materials such as clapboard and shingle are preferred. The use of new materials that reduce maintenance but emulate the look and feel of traditional materials is allowed.

ii. The design of a building facade should have a recognizable system of proportions and symmetry.

- iii. Building facades shall have depth and shadow lines through the use of façade elements such as trim, recessed windows, or projecting or recessing portions of the building volume.
- iv. The use of trim materials to provide detail at the corners, eaves, gables, pediments, lintels, sills, and between floors on larger buildings is encouraged.
- v. The color palette chosen for any building should be consistent with colors traditionally found in residential and mixed-use design in Essex County.
- vi. Columns, posts, pilasters, and other traditional structural support elements should be situated where they could logically carry structural support, even if they are merely decorative. For example, ground floor columns should be located between upper story windows, not directly below a window opening.
- i. Buildings shall be oriented and arranged to shape the space along streets into a pedestrian scale environment and/or to shape shared open spaces.
- j. 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 and shall have a consistent design in terms of proportions, entries, fenestration, and materials.
- k. 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.
- l. Exterior fire stairs shall not be located on the front façade of a building.

8.4.9.7. 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 8.4.9 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.

8.4.10. Affordability Requirements.

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

8.4.10.2. Notwithstanding, Section 6.1.6. “Fractional Affordable Housing Units and Housing Contribution Payments”, when calculating the number of units of Affordable Housing required within a development project, a fractional unit shall be rounded down to the next whole number.

8.4.10.3. Affordable Units shall be:

- a. Integrated with the rest of the development and shall be compatible in design, appearance, construction, and quality of exterior and interior materials with the other units and/or lots.
- b. Dispersed throughout the development.
- c. Located such that the units have equal access to shared amenities, including light, air, utilities including any bicycle storage and Electric Vehicle charging stations within the development.
- d. Located such that the units have equal avoidance of any potential nuisances as compared to market-rate units in the development.
- e. Distributed proportionately amongst the project’s unit sizes and types.
- f. Distributed proportionately across each phase of a phased development.

8.4.10.4. 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.

#### 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. Notwithstanding the first sentence of 11.3.4.2. “Pre-Application Conference” an Applicant is encouraged, but not required to file a request with the Planning Board for a Pre-Application Conference.

b. 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 8.4.9 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, modification 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 interests of the public in one regulated aspect or another that, despite best efforts, no form of reasonable conditions could be devised to satisfy the problem with the plan.

c. Notwithstanding the first paragraph (unnumbered) of Section 11.3.6. "Site Plan Review Guidelines," an application under the MCMOD need not comply with:

i. "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. Or,

ii. Sections 11.3.6.1. through 11.3.6.6. of this Bylaw.

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 8.4.10 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, Site Plan Review Submission Requirements, or Site Plan Review Criteria or guide interpretation of these. 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.

## **Additional Changes to Zoning Bylaw to implement MCMOD**

### Section 3. ESTABLISHMENT OF DISTRICTS

#### 3.1. Districts

[Section 3.1.1. amended by Amendment effective May 3, 2012 by vote of Annual Town Meeting, Article 22, and approved by the Attorney General on August 30, 2012 and posted according to law on September 7, 2012]

3.1.1. For the purpose of this Bylaw, the Town of West Newbury is divided into the following districts:

- Residence A (Res A)
- Residence B (Res B)
- Residence C (Res C)
- Business (Bus)
- Industrial (Ind)

Overlay Districts:

- Floodplain Overlay District
- Groundwater Protection Overlay District
- Large-Scale Ground-Mounted Solar Photovoltaic Installations Overlay District
- MBTA Communities Multi-family Overlay District (MCMOD)