

§ 125-60: MBTA Communities Multi-family Overlay District

A. Purpose

The purpose of the MBTA Communities Multi-family Overlay District (MCMOD) is to allow multi-family housing as of right in accordance with Section 3A of the Zoning Act (Massachusetts General Laws Chapter 40A). This zoning provides for as of right multi-family housing to accomplish the following purposes:

1. Encourage the production of a variety of housing sizes and typologies to provide equal access to new housing throughout the community for people with a variety of needs and income levels;
2. Support vibrant neighborhoods by encouraging an appropriate mix and intensity of uses to support an active public space that provides equal access to housing, jobs, gathering spaces, recreational opportunities, goods, and services with reasonable proximity to a transit station;
3. Preserve open space and viable agricultural land in the community by locating new housing within or adjacent to existing developed areas and infrastructure;
4. Help implement Master Plan goals, the Housing Production Plan and the Ayer Road Vision Plan.

B. Establishment and Applicability

This MCMOD is an overlay district having a land area of approximately eight (8) acres in size that is superimposed over the underlying zoning district (s) and is shown on the Zoning Map.

1. Applicability of MCMOD. An applicant may develop multi-family housing located within a MCMOD in accordance with the provisions of this § 125-60.

2. Underlying Zoning. The MCMOD is an overlay district superimposed on underlying zoning districts. The regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the respective underlying zoning district(s) shall remain in full force, as well as for uses allowed as of right or by special permit in the MCMOD. Uses that are not identified in §125-60 are governed by the requirements of the underlying zoning district(s).

C. Definitions.

For purposes of this §125-60, the following definitions shall apply.

1. Affordable unit. A multi-family housing unit that is subject to a use restriction recorded in its chain of title limiting the sale price or rent or limiting occupancy to an individual or household of a specified income, or both.

2. Affordable housing. Housing that contains Affordable Units as defined by this § 125-60

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

4. Area Median Income (AMI). The median family income for the metropolitan statistical region that includes the Town of Harvard as defined by the U.S. Department of Housing and Urban Development (HUD).

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

6. 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.

7. EOHLC. The Massachusetts Executive Office of Housing and Livable Communities, or any successor agency.

8. Development standards. Provisions of § 125-60 G. General Development Standards made applicable to projects within the MCMOD.

9. Lot Coverage. The maximum area of a lot covered by impervious surfaces, including the footprint of buildings, parking, sidewalks, patios and decks.

10. MBTA. Massachusetts Bay Transportation Authority.

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

12. 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.

13. 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.

14. Open space. Contiguous undeveloped land, a naturally landscaped area, or a formal or man-made landscaped area that provides a connective link or a buffer between other within resources within a parcel boundary.

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

16. Parking, surface. One or more parking spaces without a built structure above the space. A solar panel designed to be installed above a surface parking space does not count as a built structure for the purposes of this definition.

17. Residential dwelling unit. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

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

19. Site plan review authority. Harvard Planning Board.

20. Special permit granting authority. (if it were mixed use) Harvard Planning Board

21. Subsidized Housing Inventory (SHI). A list of qualified Affordable Housing Units maintained by EOHLC used to measure a community's stock of low-or moderate-income housing for the purposes of M.G.L. Chapter 40B, the Comprehensive Permit Law.

24. Transit station. The Ayer or Littleton MBTA commuter rail station

D. Permitted Uses

1. Uses Permitted As of Right. As many as 120 units of multi-family housing is permitted as of right within the MCMOD.

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

a. Mixed-use development. Uses in a mixed-use development are as follows:

Ground Floor

125-12 Small Scale Commercial uses

125-13A Medical or Dental Office

125-13B Automated teller machine (not a drive-up facility)

125-13C Personal or business service including barber or beauty salon, shoe repair, tailoring, business or trade schools, photocopying and locksmith

125-13G Dry cleaning and laundry pick-up station

125-13H Nursery school, Kindergarten or day-care center for preschool children

125-13L Catering service, delicatessen or other food market or a permitted eating establishment

125-13P Restaurant or other food service establishment whose principal business is the sale of prepared foods or beverages that are consumed on the premises or carried out by retail customers.

Pharmacy

Recreation, dance or fitness facility

Grocery or farm products retail store with less than 10,000 square feet of gross floor area.

Any Floor

Residential (required component).

- b. Affordable Ownership Units. More than 120 units of which 25% of the additional units over 120 units must be affordable at 80% AMI;
- c. Affordable Rental Units. Any units in excess of 120 units may be allocated as rental units, of which 25% of the additional units over 120 units must be affordable at 80% AMI; A sufficient number of units above 120 units must be designated affordable such that at least 25% of rental units in the development shall be restricted to occupancy by Income Eligible Households, earning 80% or less of the area median income, and the window of affordable rent will be set at 30% of the 70% median income, to conform with 760 CMR 56.00. These restrictions will enable 100% of the development rental units to be included in the Subsidized Housing Inventory.

3. Accessory Uses. The following uses are considered accessory as of right to any of the permitted uses in § 125-60 D.1.

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

E. Dimensional Standards

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

Standard	
Lot Size	
Minimum (SF)	40,000
Height	
Stories (Maximum)	3
Feet (Maximum)	45
Minimum Open Space	30%

2. Floor area and Maximum Lot Coverage

Standard	
Floor Area Ratio (FAR)	2.5
Maximum Lot Coverage	70%

Standard	
Minimum Gross Density	15 per acre (-0% / +5%)

3. Frontage and Setbacks

Standard	
Minimum Frontage (ft)	50
Front Yard Setback	
Min to Max (ft)	10-40
Side Yard Setback	
Corner (ft)	10-40
Interior (ft)	10-40
Rear Yard Setback	
Min to Max (ft)	20-40

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

5. Exceptions. The limitation on height of buildings shall not apply to roof lines, chimneys, ventilators, towers, silos, spires, or other ornamental features of buildings, which features are in no way used for living purposes and do not constitute more than 25% of the ground floor area of the building. Roof-top mechanicals shall be screened.

6. Renewable Energy Installations. The Site Plan Review Authority or Special Permit Granting Authority may waive the height and setbacks in § 125-60 E. Dimensional Standards to accommodate the installation of solar photovoltaic, solar thermal, living, and other eco-roofs, energy storage, and air-source heat pump equipment. Such installations shall not create a significant detriment to abutters in terms of noise or shadow and must be appropriately integrated into the architecture of the building and the layout of the site. The installations shall not provide additional habitable space within the development.

F. Off-Street Parking

These parking requirements are applicable to development in the MCMOD.

1. Number of parking spaces. The following maximum numbers of off-street parking spaces shall be permitted by use, either in surface parking or within garages or other structures:

Use	Auto Parking Spaces	Bicycle Spaces
Multi-Family	1.5	1
Mixed Use (Non-Residential/Commercial)	Sum of uses computed separately (see 3 below)	1 for each 10 parking spaces, rounding up

2. Bicycle storage. For a multi-family development of [25] units or more, or a mixed-use development of [25,000] square feet or more, covered parking bicycle parking spaces may be integrated into the structure of the building(s).

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

4. Number of electric vehicle (EV) charging stations. For all uses within the MCMOD, electric charging stations are required with one EV space required for every [twenty (20)] parking spaces, rounded up to the next highest number of EV stations. (No EV charging stations allowed inside)

G. General Development Standards

1. Development standards in the MCMOD are applicable to all multi-family development with more than [25] units or mixed-use development of more than [25,000] SF within the MCMOD. These standards are components of the Site Plan Review process in § 125-38

2. Site Design.

a. Sidewalks. Sidewalks and walkways shall conform to the requirements in § 125-39G, and shall provide direct connections among building entrances, the public sidewalk (if applicable), bicycle storage, and parking.

b. Vehicular Access. Parking and loading shall conform to the requirements in § 125-39 A. Driveways shall conform to the requirements in § 125-39 B. Where feasible, curb cuts shall be minimized, and shared driveways encouraged.

c. Open Space. Open spaces shall conform to the requirements in § 125-39 C.

d. Screening. Screening shall conform to the requirements in § 125-39 D.

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

f. Lighting. Lighting shall conform to the requirements in § 125-40. Light levels shall meet or exceed 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.

g. Mechanicals. Mechanical equipment at ground level shall be screened by a combination of fencing and plantings. Rooftop mechanical equipment shall be screened if visible from a public right-of-way.

h. 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 the building.

i. Stormwater management. Strategies that demonstrate compliance with the Local Harvard Bylaw of the construction activities and the proposed project with the most current versions of the Massachusetts Department of Environmental Protection Stormwater Management Standards, the Massachusetts Stormwater Handbook, Massachusetts Erosion Sediment and Control Guidelines. Drainage shall conform to the requirements in § 125-39F.

j. Water supply. Any well must comply with MassDEP's well guidelines. These guidelines require a public water supply well if the well services were more than 24 people.

3. Buildings: General.

a. Entries. Where feasible, entries shall be clearly defined and linked to a paved pedestrian network that includes the public sidewalk.

4. Buildings: Multiple buildings on a lot.

a. For a mixed-use development, uses may be mixed within the buildings or in separate buildings.

b. Parking and circulation on the site shall be organized so as to reduce the amount of impervious surface. Where possible, parking and loading areas shall be connected to minimize curb cuts onto public rights-of-way.

c. A paved pedestrian network shall connect parking to the entries to all buildings and the buildings to each other.

d. The orientation of multiple buildings on a lot should reinforce the relationships among the buildings. All building façade(s) shall be treated with the same care and attention in terms of entries, fenestration, and materials.

e. The building(s) adjacent to the public street shall have a pedestrian entry facing the public street.

5. Buildings: Mixed-use development.

a. 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.

b. Paved pedestrian access from the residential component shall be provided to residential parking and amenities and to the public sidewalk, as applicable.

c. Materials for non-residential uses shall be stored inside or under cover and shall not be accessible to residents of the development.

d. Parking and circulation on the site shall be organized so as to reduce the amount of impervious surface. Where possible, parking and loading areas shall be connected to minimize curb cuts onto public rights-of-way.

6. Buildings: Shared Outdoor Space. Multi-family housing and mixed-use development shall have common outdoor space that all residents can access. Such space may be located in any combination of ground floor, courtyard, rooftop, or terrace. ~~All outdoor space shall count towards the project's minimum Open Space requirement.~~

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

a. Such entries shall be connected by a paved surface to the public sidewalk, if applicable.

b. Fire exits serving more than one story shall not be located on either of the street-facing façades.

8. Parking.

a. **Surface parking** shall be located to the rear or side of the principal building. Parking shall not be located in the setback between the building and any lot line adjacent to the public right-of-way.

b. **Integrated garages.** The principal pedestrian entry into the building shall be more prominent in design and placement than the vehicular entry into the garage.

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

9. 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 § 125-60 G. 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.

H. Affordability Requirements.

1. Purpose.

- a. Promote the public health, safety, and welfare by encouraging a diversity of housing opportunities for people of different income levels;
- b. Provide for a full range of housing choices for households of all incomes, ages, and sizes;
- c. Increase the production of affordable housing units to meet existing and anticipated housing needs; and
- d. Work to overcome economic segregation allowing Harvard to be a community of opportunity in which low and moderate-income households have the opportunity to advance economically.

2. Applicability. This requirement is applicable to all residential and mixed-use developments with ten (10)] or more dwelling units, whether new construction, substantial rehabilitation, expansion, reconstruction, or residential conversion (Applicable Projects). No project may be divided or phased to avoid the requirements of this section.

3. Affordability requirements.

All units affordable to households earning 80% or less of AMI created in the MCMOD under this section must be eligible for listing on DHCD's Subsidized Housing Inventory.

4. Provision of Affordable Housing. not fewer than ten percent (10%) of housing units constructed shall be Affordable Housing Units. For purposes of 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. The Affordable Units shall be available to households earning income up to eighty percent (80%) of the AMI.

5. Development Standards. 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. Proportionately dispersed throughout the development with respect to location, unit type, quality and character, room size, and number and distribution of bedrooms, and in all respects shall be indistinguishable from the development's comparable market-rate dwelling units;
- c. Located such that the units have equal access to shared amenities, including light and air, and utilities (including any bicycle storage and/or Electric Vehicle charging stations) within the development;
- d. Located such that the units have equal avoidance of any potential nuisances as market-rate units within the development;
- e. Distributed proportionately across each phase of a phased development.
- f. The dimensional requirements that are set forth in Section E of these bylaws shall apply both to the development's affordable dwelling units and its market-rate dwelling units.
- g. Occupancy permits may be issued for market-rate units prior to the end of construction of the entire development provided that occupancy permits for Affordable Units are issued

simultaneously on a pro rata basis. The last Occupancy permit issued shall be for a market-rate unit.

6 Administration.

- a. The Zoning Enforcement Officer/Building Commissioner shall be responsible for administering and enforcing the requirements in this section.
- b. Severability: if any provision of this bylaw were determined to be invalid by a court of competent jurisdiction, the remainder hereof shall not be affected but shall remain in full force and effect. The invalidity of any provision of this bylaw shall not affect the validity of the remainder of the bylaw.

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