

SECTION 5.E.12: 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. To ensure compliance with MGL c. 40A § 3A.
2. 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;
3. 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.
4. Locate housing within walking distance of public transit to promote general public health, reduce the number of vehicular miles traveled, support economic development, and meet community-based environmental goals, including reducing greenhouse gases and improving air quality.
5. Preserve open space in a community by locating new housing within or adjacent to existing developed areas and infrastructure.
6. Support public investment in public transit and pedestrian- and bike-friendly infrastructure.
7. Increase the municipal tax base through private investment in new residential developments.

B. ESTABLISHMENT AND APPLICABILITY

This MCMOD is an overlay district having a land area of approximately 129 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 Section 5.E.12.
2. **Underlying Zoning.** The MCMOD is an overlay district superimposed on underlying zoning districts. This Section 5.E.12 shall apply only to Permitted Uses set forth in Section 5.E.12.D on lots located within the MCMOD. Land within the MCMOD may be put to those uses expressly permitted in this Section 5.E.12, in which case the requirements of this Section and those of the underlying zoning districts shall apply to such use. If the provisions of the MCMOD conflict with the requirements of the underlying districts for such use, the requirements of the MCMOD shall control. The regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the respective underlying zoning

district(s) shall otherwise remain in full force and effect and shall continue to apply to those uses that are not identified in Section 5.E.12.D.

3. **Subdistricts.** The MCMOD contains the following subdistricts, all of which are shown on the MCMOD Boundary Map:

- i. Subdistrict A: Outer Mills District
- ii. Subdistrict B: Inner Mills District
- iii. Subdistrict C: Federal District
- iv. Subdistrict D: Kenmar District

4. **Location.**

- i. Subdistrict A: Outer Mills District is located and bounded as shown on a map entitled “MCMOD-Subdistrict A Outer Mills” dated 11/18/2024 on file in the Office of the Town Clerk.
- ii. Subdistrict B: Inner Mills District is located and bounded as shown on a map entitled “MCMOD-Subdistrict B Inner Mills” dated 11/18/2024 on file in the Office of the Town Clerk.
- iii. Subdistrict C: Federal District is located and bounded as shown on a map entitled “MCMOD-Subdistrict C Federal St” dated 11/18/2024 on file in the Office of the Town Clerk.
- iv. Subdistrict D: Kenmar District is located and bounded as shown on a map entitled “MCMOD-Subdistrict D Kenmar” dated 11/18/2024 on file in the Office of the Town Clerk.

C. DEFINITIONS

For purposes of this Section 5.E.12, the following definitions shall apply.

- **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.
- **Affordable housing.** Housing that contains Affordable Units as defined by this Section 5.E.12.C.
- **Applicant.** A person, business, or organization that applies for a building permit, Site Plan Review, or Special Permit.
- **Area Median Income (AMI).** The median family income for the metropolitan statistical region that includes the Town of Billerica, as defined by the U.S. Department of Housing and Urban Development (HUD).
- **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.

- **Development standards.** Provisions of Section 5.E.12.G. General Development Standards made applicable to projects within the MCMOD.
- **EOHLC.** The Massachusetts Executive Office of Housing and Livable Communities, or any successor agency.
- **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.
- **MBTA.** Massachusetts Bay Transportation Authority.
- **Mixed-Use Development.** Development containing a mix of residential uses and non-residential uses, including, without limitation, 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.** Contiguous undeveloped land within a parcel boundary.
- **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.
- **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.
- **Section 3A.** Section 3A of the Zoning Act.
- **Site plan review authority.** The Billerica Planning Board.
- **Special permit granting authority.** The Special Permit Granting Authority shall be the Billerica Planning Board for any special permit required under section 5.E.12.
- **Subzone/Subdistrict.** 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.
- **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.

D. PERMITTED USES

1. **Uses Permitted As of Right.** The following uses are permitted as of right within the MCMOD.
 - i. **Multi-family housing.**
 - ii. **Two-family dwelling.**

iii. **Mixed-use development.** Within subdistricts B Inner Mills and C Federal, the following use(s) under 5,000 sf of floor area per site are allowed as of right on the basement or ground floor. All mixed-use developments shall include a residential use.

- Philanthropic Uses
- Personal services
- Retail
- Indoor Amusement
- Experiential retail, including retail associated with dance or exercise studios, music studios, photography studios, or other combinations of education, services, and retail
- Restaurant, café, and other eating establishments without a drive-through
- Office, professional office, medical and dental offices, and co-working space
- Artists' studios, maker space, and small-scale food production, and retail associated with each use

2. **Uses Permitted by Special Permit.** The following uses require the approval of a special permit under section 5.E.12.D.

i. **Mixed-use development.** Within subdistricts B and C, containing the following use(s) over 5,000 sf of floor area per site or located above the ground floor:

- Philanthropic Uses
- Personal services
- Retail
- Indoor Amusement
- Experiential retail, including retail associated with dance or exercise studios, music studios, photography studios, or other combinations of education, services, and retail.
- Restaurant, café, and other eating establishments without a drive-through
- Office, professional office, medical and dental offices, and co-working space
- Artists' studios, maker space, and small-scale food production, and retail associated with each use.

3. **Accessory Uses.** The following uses are considered accessory as of right to any of the permitted uses in Section 5.E.12.D.
 - i. 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.
 - ii. Any building, structure, or use customarily incidental to the principal residential use, included but not limited to a playhouse, private greenhouse, tool shed, tennis court, or swimming pool.

E. DENSITY AND DIMENSIONAL STANDARDS

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

Standard	Subdistrict A: Outer Mills	Subdistrict B: Inner Mills	Subdistrict C: Federal	Subdistrict D: Kenmar
Height				
Stories (maximum)	2.5	5	3	3
Feet (maximum)	35	60	40	40
Minimum open space	20%	20%	20%	20%
Gross density	15 units per acre	35 units per acre	25 units per acre	20 units per acre
Setbacks				
Front yard	15	10	15	15
Side yard	15	15	15	15
Rear yard	20	20	45	20

2. **Multi-Building Lots.** In the MCMOD, lots may have more than one (1) principal building.
3. **Exceptions.**
 - i. **Building height.** The limitation on height of buildings shall not apply to 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.
 - ii. **Renewable Energy Installations.** The Site Plan Review Authority may waive the height and setbacks in Section 5.E.12.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

- iii. **Waiver of Setback Requirements for Historic Districts.** The Site Plan Review Authority may allow for waivers to front, side, and rear-yard setbacks and minimum open space requirements of this section for properties in the North Billerica Mills Historic District.

F. OFF-STREET PARKING

These parking requirements are applicable to development of uses identified in the MCMOD.

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

Use	Minimum spaces per dwelling unit by Subzone			
	Subdistrict A: Outer Mills	Subdistrict B: Inner Mills	Subdistrict C: Federal	Subdistrict D: Kenmar
Multi-family studio and one (1) bedroom units	1.5/unit	1.5/unit	1.5/unit	1.5/unit
Multi-family two (2) or more bedrooms	2/unit	1.5/unit	2/unit	2/unit
Mixed-Use (Non-residential)/ Commercial Component	n/a	Sum of uses computed separately. (See SECTION 8 PARKING AND LOADING REGULATIONS.)	Sum of uses computed separately. (See SECTION 8 PARKING AND LOADING REGULATIONS.)	n/a

2. **Number of bicycle parking spaces.** The following minimum numbers of covered bicycle storage spaces shall be provided by use:

Use	Minimum spaces per dwelling unit by Subzone			
	Subdistrict A: Outer Mills	Subdistrict B: Inner Mills	Subdistrict C: Federal	Subdistrict D: Kenmar
Multi-family	1	1	1	1

Mixed-Use (Non-residential)/ Commercial Component	n/a	1 per every 20 parking spaces	1 per every 20 parking spaces	n/a
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3. **Bicycle storage.** For a multi-family development of six (6) units or more, or a mixed-use development of 25,000 square feet or more, covered parking bicycle parking spaces shall be integrated into the structure of the building(s).
4. **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.
5. **Waiver of Parking Requirements for Historic Buildings.** The Planning Board may allow for parking requirement waivers of this section for the adaptive reuse of buildings listed on the National or State Registers of Historic Places, or eligible for such listing through the Site Plan Review process. The Planning Board may also approve offsite off-street parking agreements to locate the required parking on an adjacent parcel or parcel located within 300 feet of the development.
6. **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 20 parking spaces, rounded up to the next highest number of EV stations.

G. GENERAL DEVELOPMENT STANDARDS

1. The Development standards in this section are applicable to all multi-family development and any mixed-use development within the MCMOD. These standards are components of the Site Plan Review process in Section 5.E.12.I. Site Plan Review.
2. **Site Design.**
 - i. **Connections.** Sidewalks shall provide direct connections among building entrances, the public sidewalk, bicycle storage, and parking.
 - ii. **Vehicular access.** Where feasible, curb cuts shall be minimized, and shared driveways encouraged.
 - iii. **Open Space.** Acceptable activities within the minimum required Open Space include natural areas (including wetlands and surface waters), wildlife and native plant habitat, landscape plantings, agricultural activities, low impact design stormwater management, non-motorized trails, and other low-impact activities. Open Space shall not contain habitable structures.
 - iv. **Location of Parking.** Parking, either surface or structured, is not allowed between a building and the front yard lot line. On a corner lot, parking is not allowed between the building and the front and side yard lot lines.

- v. **Screening for Parking.** Surface parking adjacent to a public sidewalk shall be screened by a landscaped buffer of sufficient width to allow the healthy establishment of trees, shrubs, and perennials, but no less than six (6) feet. The buffer may include a fence or wall of no more than three feet in height unless there is a significant grade change between the parking and the sidewalk.
- vi. **Parking Materials.** The parking surface may be concrete, asphalt, bricks, or pavers, including pervious materials but not including grass or soil not contained within a paver or other structure.
- vii. **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.
- viii. **Lighting.** 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.
- ix. **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.
- x. **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.
- xi. **Stormwater management.** Strategies that demonstrate compliance of the construction activities and the proposed project with the most current versions of the Massachusetts Department of Environmental Protection Stormwater Management Standards, the Massachusetts Stormwater Handbook, Massachusetts Erosion Sediment and Control Guidelines, and, if applicable, additional requirements under the Town of Billerica MS4 Permit for projects that disturb more than one acre and discharge to the Town's municipal stormwater system, and an Operations and Management Plan for both the construction activities and ongoing post-construction maintenance and reporting requirements.

3. **Buildings: General.**

- i. **Position relative to principal street.** The primary building shall have its principal façade and entrance facing the principal street. On lots with multiple buildings, the building closest to the principal street is considered the primary building for this section. See also Section G.7. Buildings: Corner Lots.
- ii. **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.**

- i. For a mixed-use development, uses may be mixed within the buildings or in separate buildings.
- ii. 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.
- iii. A paved pedestrian network shall connect parking to the entries to all buildings and the buildings to each other.
- iv. All building façade(s) shall be treated with the same care and attention in terms of entries, fenestration, and materials.
- v. The building(s) adjacent to the public street shall have a pedestrian entry facing the public street.

5. **Buildings: Mixed-use development.**

- i. 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.
- ii. Paved pedestrian access from the residential component shall be provided to residential parking and amenities and to the public sidewalk, as applicable.
- iii. Materials for non-residential uses shall be stored inside or under cover and shall not be accessible to residents of the development.
- iv. 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.

- i. Such entries shall be connected by a paved surface to the public sidewalk, if applicable.
- ii. All façades visible from a public right-of-way shall be treated with the same care and attention in terms of entries, fenestration, and materials.

- iii. Fire exits serving more than one story shall not be located on either of the street-facing façades.
- 8. **Buildings: Infill Lots.** If the adjacent buildings are set back at a distance that exceeds the minimum front yard requirements, infill buildings shall meet the requirements of Section 5.E.12.E. Density and Dimensional Standards. Otherwise, infill buildings may match the setback line of either adjacent building, or an average of the setback of the two buildings to provide consistency along the street.
- 9. **Buildings: Principal Façade and Parking.** Parking shall be subordinate in design and location to the principal building façade.
 - i. **Surface parking.** Surface parking shall be located to the rear or side of the principal building. Parking shall not be located in the setback between the building and any lot line adjacent to the public right-of-way.
 - ii. **Integrated garages.** The principal pedestrian entry into the building shall be more prominent in design and placement than the vehicular entry into the garage.
 - iii. **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.
- 10. **Waivers.** Upon the request of the Applicant and subject to compliance with the Compliance Guidelines, the Site Plan Review Authority may waive requirements of this Section 5.E.12.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.**
 - i. Promote the public health, safety, and welfare by encouraging a diversity of housing opportunities for people of different income levels;
 - ii. Provide for a full range of housing choices for households of all incomes, ages, and sizes;
 - iii. Increase the production of affordable housing units to meet existing and anticipated housing needs; and
 - iv. Work to overcome economic segregation allowing Billerica 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 multi-family and mixed-use developments with six (6) 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. **Provision of Affordable Housing.** In Applicable Projects, not fewer than 10% of housing units constructed shall be Affordable Housing Units as defined by the EOHLC Subsidized Housing Inventory (SHI). For the purposes of calculating the number of units of Affordable Housing required within a development project, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit and any fractional unit of 0.4 or less shall require no contribution to satisfy the fractional share. The Affordable Units shall be available to households earning income up to eighty percent (80%) of the AMI.
4. **Development Standards.** Affordable Units shall be:
 - i. 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;
 - ii. Dispersed throughout the development;
 - iii. Located such that the units have equal access to shared amenities, including light, air, and utilities (including any bicycle storage and/or Electric Vehicle charging stations) within the development;
 - iv. Located such that the units have equal avoidance of any potential nuisances as market-rate units within the development;
 - v. Distributed proportionately among unit sizes; and
 - vi. Distributed proportionately across each phase of a phased development.
 - vii. Occupancy permits shall only be issued for market-rate units prior to the end of construction of the entire development if occupancy permits for Affordable Units are issued simultaneously on a pro rata basis.
5. **Administration.**
 - i. The Planning Director shall be responsible for administering and enforcing the requirements in this section.

I. SITE PLAN REVIEW

1. **Administration.** The provisions of this Section 5.E.12.I shall be administered by the Site Plan Review Authority, except as otherwise provided herein.
2. **Applicability.** Site Plan Review is required for a project that proposes six (6) dwelling units or more. An application for Site Plan Review shall be reviewed by the Permitting Authority for consistency with the purpose and intent of Sections 5.E.12.D through H.
 - i. In cases where the Site Plan Review Authority is also considering a Special Permit, they should determine the Special Permit first and then undertake a final Site Plan Review.

- ii. This section supersedes the Site Plan review process described in Section 6 of the Zoning Bylaw.
- 3. **Submission Requirements.** As part of any application for Site Plan Review for a project within the MCMOD, the Applicant must submit the following documents to the Municipality:
 - i. Application and fee for Site Plan Review.
 - ii. Site plans that show the position of the building on the site, points of vehicular access to and from the site and vehicular circulation on the site, stormwater management, utilities, and landscape treatments, including any screening of adjacent properties, and other information commonly required by Municipality for Site Plan Review.
 - iii. Elevations of the building(s) showing the architectural design of the building.
 - iv. All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of one inch equals forty feet (1"=40') or larger, or at a scale as approved in advance by the Permitting Authority.
 - v. Narrative of compliance with the applicable design standards of this Section 5.E.12.
- 4. **Timeline.** Site Plan Review should be commenced no later than 30 days after the submission of a complete application and should be completed expeditiously. The site plan review authority may, when appropriate, seek the input of other municipal boards or officials. In general, site plan review should be completed no more than six (6) months after the submission of the application.
- 5. **Site Plan Approval.** Site Plan approval for uses listed in Section 5.E.12.D Permitted Uses shall be granted upon determination by the Site Plan Review Authority that the following findings have been satisfied. The Site Plan Review Authority may impose reasonable conditions, at the expense of the applicant, to ensure that these findings have been satisfied.
 - i. The Applicant has submitted the required fees and information as set forth in Municipality's requirements for a Building Permit and Site Plan Review; and
 - ii. The project as described in the application meets the development standards set forth in Section 5.E.12.G. General Development Standards.]
- 6. **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 5.E.12.H. Affordability Requirements.

J. SEVERABILITY

If any provision of this Section 5.E.12 is found to be invalid by a court of competent jurisdiction, the remainder of Section 5.E.12 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 5.E.12 shall not affect the validity of the remainder of the Town of Billerica's Zoning.

K. SUNSET CLAUSE

This Section 5.E.12 MBTA Communities Multi-Family Overlay District, along with:

1. the reference to Section 5.E.12. in the Table of Contents,
2. the reference to "MBTA Communities Multi-family Overlay District" in subsection k. to Section 3.a.3,
3. the reference to "MCMOD- MBTA Communities Multi-family Overlay District in District Abbreviations under the Overlay category in Section 5.f, and
4. the portions of the Zoning Map depicting the MBTA Communities Multi-family Overlay District on the maps entitled: "MBTA Communities Multi-family Overlay District: A. "Outer Mills Subdistrict", B: "Inner Mills Subdistrict", C: "Federal St Subdistrict", and D: "Kenmar Subdistrict", on file with the Town Clerk

shall expire and no longer remain in effect when a court of competent jurisdiction issues a final decision invalidating Massachusetts General Laws Chapter 40A, § 3A in its entirety or invalidating the requirement of Massachusetts General Laws Chapter 40A, §3A(a)(1) that an MBTA community shall have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right or when legislation is enacted into law invalidating Massachusetts General Laws Chapter 40A, § 3A in its entirety or invalidating the requirement of Massachusetts General Laws Chapter 40A, §3A(a)(1) that an MBTA community shall have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right.