

Administrative & Miscellaneous Revisions to Title 12, Code of the City of Malden

Purpose and Intent of proposed amendments: To clarify existing provisions, codify current protocol and interpretation, streamline permitting, and update the ordinance in accordance with state law.

1. Section 12.12.010.A. Use Regulations.

Amend the following phrase to read as follows:

“and except for residential use, ‘dwelling multifamily, more than six stories but not to exceed seven stories,’ where a special permit shall be required by the City Council in accordance with **the requirements** of this section **herein under, ‘All Structures More than Six Stories,’ and** in conformance with the following controls:”

2. Section 12.12.030. Use Regulations.

- a) Day Care Centers. Under column, Residence B, change “No” to “Yes.”
- b) Non-profit schools. Under columns, I1 and I2, change “No” to “Yes.”

3. Section 12.28.010. Nonconforming Uses, Lots, Buildings and Structures.

- a) Section 12.28.010.B. Single and two-family dwellings. Amend to read as follows:
Any single or two-family residential structure may be altered or structurally changed provided said alteration or structural change **that increases the footprint and/or height of the structure** conforms to current dimensional controls of this Ordinance **or obtains a variance; alterations and structural changes that do not increase existing violations may continue and do not require conformance to current controls or variance.** Any single or two-family residential structure may be reconstructed in the same dimensions or lesser and in the same location.
- b) Section 12.28.010.C. Three-family residential dwellings. Add the following:
Any addition shall comply with the current dimensional controls of this Ordinance or shall obtain a variance to allow any nonconformities.
- c) Section 12.28.010.D. Residence A, B and C zoning districts.
 - Delete subsection 2: “day care use in Residence B”
 - Renumber subsections sections 3 through 5 to 2 through 4.
 - Add the following:
Where a special permit is required, the Planning Board must make a finding that any creation or increase in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood; and if the Planning Board makes the finding that any creation or increase in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood, then any new or increased violations of dimensional controls or parking requirements may be allowed by special permit and shall not require a variance.
For dormer addition(s) to a preexisting nonconforming residential dwelling regulated by this section, dormer addition(s) that increase the gross floor area of the floor where the dormer(s) is located by 50% or less shall not require a special permit.

d) Section 12.28.010.E. Residential Office, business and industrial zoning districts.

- Amend to read as follows:

Preexisting nonconforming uses, lots, buildings or structures in the Residential Office, all business and all industrial zoning districts, other than those provided for in Paragraph B, may be reconstructed in the same **or lesser** dimensions and occupied for the same use, or extended, structurally changed or altered only for a use allowed **by right** in the district, by special permit granted by the Planning Board provided said Board finds that said reconstruction **or**, extension, structural change, or alteration is not more detrimental to the neighborhood; **and provided however that a structural change or alteration that does not increase the size of the building shall not require a special permit.** Change of use without extension or structural change may only be to a use allowed **by right** in the district and shall not require a special permit; except for Marijuana Retailer, Marijuana Cultivator, Independent Marijuana Testing Laboratory, Marijuana Product Manufacturer, Marijuana Research Facility and Marijuana Transporter, where a special permit shall be required by the City Council in accordance with MCC 12.12.190, in all cases, whether or not there is extension or structural change.

- Add the following:

Where a special permit is required, the Planning Board must make a finding that any creation or increase in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood; and if the Planning Board makes the finding that any creation or increase in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood, then any new or increased violations of dimensional controls or parking requirements may be allowed by special permit and shall not require a variance.

e) Section 12.28.010.F. Amend to read as follows:

As used herein, the meaning of “extend” or “extension” includes any increase of an existing nonconformity or violation; **any and** creation of a new nonconformity or violation; and any increase in **usable floor area or** habitable area, including but not limited to, enclosing a porch or deck or finishing an attic or basement or constructing an addition.

f) Section 12.28.010.H. Amend to read as follows:

Any ~~nonconforming~~ building or structure ~~or~~ **with nonconforming** use abandoned or not used for a period of two or more years, the **nonconforming use is extinguished** and **the building or structure** shall thereafter be used only in accordance with the ~~provisions~~ **Use Regulations** of this Ordinance.

A nonconforming building or lot abandoned or not used for a period of two or more years shall thereafter be used only in accordance with the Use Regulations of this Ordinance and must comply with, or seek and obtain a variance of any violations of, dimensional controls or parking requirements, unless exempt by M.G.L. c. 40A.

~~When an application is filed regarding a nonconforming building, structure or use where the building is currently vacant or the use is inactive, this period will be determined by the Board of Appeal per a petition filed in accordance with the provisions of MCC 12.32.040 Paragraph A.3.~~

4. Section 12.20.020.H. General Offstreet parking Requirements, In the Central Business District.

- Reorder/renumber sections 2 and 3
- Amend to read as follows:

~~2. For residential uses, 3. If parking requirements are reduced, the developer/owner shall contribute \$2,000 annually for each space reduced to a City of Malden Parking and Traffic Mitigation Trust Fund to be used at the City's reasonable discretion to mitigate future impacts on traffic and parking and/or for infrastructure improvements to parking and traffic systems.~~

3. 2. The onsite parking requirements for residential uses may be further reduced by special permit granted by the City Council provided, however, that the Malden Traffic Commission certifies that the parking will be provided offsite in a city of Malden public parking facility within 400 feet of the residential property, and further provided that the reduction will not be detrimental to the public good.

5. Section 12.32.030.B. Certificates and Permits, Special Permits.

- a) Amend Subsection 2 as follows:

In those cases where the Board of Appeal or City Council is the special permit granting authority, the Planning Board shall review the application and site plan, evaluate the proposed use and its relationship and conformity to the goals and objectives and policies established by the city Comprehensive Plan, and within twenty-one (21) days after the receipt of such application make a written report to the ~~Board of Appeal~~ **special permit granting authority** setting forth its findings and recommendations. In making its recommendations, the Planning Board may suggest any revision to the site plan or other plans as will, in its opinion, cause the proposed use to be in substantial conformance with the Comprehensive Plan and its principles of land use and development. The ~~Board of Appeal~~ **special permit granting authority** shall not hold a public hearing for that particular application until either the Planning Board report is received or the elapse of the twenty-one (21) day time limit.”

- b) Amend Subsection 5 to add the following (new voting threshold, M.G.L. c.40A, Section 9):

“A special permit issued by a special permit granting authority shall require a simple majority vote for any of the following: (a) multifamily housing that is located within 1/2 mile of a commuter rail station, subway station, ferry terminal or bus station; provided, that not less than 10 per cent of the housing shall be affordable to and occupied by households whose annual income is less than 80 per cent of the area wide median income as determined by the United States Department of Housing and Urban Development and affordability is assured for a period of not less than 30 years through the use of an affordable housing restriction as defined in section 31 of chapter 184; (b) mixed-use development in

centers of commercial activity within a municipality, including town and city centers, other commercial districts in cities and towns and rural village districts; provided, that not less than 10 per cent of the housing shall be affordable to and occupied by households whose annual income is less than 80 per cent of the area wide median income as determined by the United States Department of Housing and Urban Development and affordability is assured for a period of not less than 30 years through the use of an affordable housing restriction as defined in section 31 of chapter 184; or (c) a reduced parking space to residential unit ratio requirement, pursuant to this section; provided, that a reduction in the parking requirement will result in the production of additional housing units.”

- c) Amend Subsection 6 to add the following:
The special permit granting authority shall file its decision with the City Clerk within fourteen (14) days of the public hearing.

6. Various Sections. Delete, “Malden Redevelopment Authority,” insert, “Office of Strategic Planning & Community Development,” in the following sections:
- Section 12.12.140.F. Site Plan Review Committee.
 - Section 12.28.140 Rowe’s Quarry Reclamation and Redevelopment District, RQ Site Plan Review Committee.
 - Section 12.32.060. Definition of Working Artist.