

PLANNING REPORT & RECOMMENDATION

To: Malden Planning Board
From: Malden City Planner
Date: December 5, 2023
Subject: Proposed Zoning Amendments (CCP 418/2023)
§§12.08, 12.12 & 12.32, Title 12, Code of City of Malden (MCC) (*§ references herein*)

PROCEDURAL: The petition was filed by the City Council (§12.32.050) by sponsors Ward 1 Councilor Peg Crowe, Councilor-at-Large Craig Spadafora and Ward 6 Councilor Steve Winslow. For more information, see attached memorandum from Mayor Christenson to City Council dated November 9, 2023 re: zoning amendment proposal. For full text of amendments, see attached City Council Paper 418/2023.

The proposed zoning amendments will allow the City to comply with the MBTA Communities Zoning law (M.G.L. c.40A. Section 3A). This new law requires Malden to have zoning that allows **6,930 multifamily housing units by right** (see herein below for definitions), in district(s) of a minimum 31 acres, with 50% of the units and acreage located within ½ mile of its MBTA rapid transit stations at Malden Center or Oak Grove; and the law also allows a maximum of 25% (1,732 units) to be in mandatory mixed-use developments.

Note 1: To explain the requirements of the law and establish criteria for compliance, the state Executive Office of Housing and Livable Communities (EOHLC), formerly known as Department of Housing and Community Development (DHCD) issued guidelines on August 10, 2022, revised October 21, 2022 and August 17, 2023.

Note 2: Malden's state-set unit capacity (6,930) is 25% of its total housing units (27,721) per Census 2020. Malden's state-set district size (31 acres) is based on its "developable land within ½ mile of a transit station."

SUMMARY of PROPOSED AMENDMENTS:

1. **Section 12.080.010 (Establishment of Districts) and Section 12.080.020 (Zoning Map).**
Two new overlay zoning districts are proposed to be established:
 - A. MBTA Communities Multifamily Overlay zoning district (MCMOD) with four subdistricts, differentiated by dimensional and parking requirements:
 - 1) Malden Center (MCMOD MC)
 - 2) Malden Center High Rise (MCMOD MCHR)
 - 3) Medium Density (MCMOD MD)
 - 4) Oak Grove (MCMOD OG) (includes parcels outside the Oak Grove station area)
 - B. Mandatory Mixed-Use overlay zoning district (MMUD).
 - C. Parcels in the proposed districts are identified on the attached lists and shown on the attached map, "City of Malden MBTA Communities Zoning Overlay Districts 11/9/23 MCMOD-MMMUD Boundary Map."
2. **Section 12.12 (Use Regulations).** Applicable to property in the districts (MCMOD and MMUD).
 - A. **Use Regulations.**
 - 1) Multifamily dwellings are allowed by right in all MCMOD subdistricts.
 - 2) Multifamily dwellings are allowed by right in the MMUD.
 - 3) Mixed-use development may be allowed in MCMOD subdistricts; however, only those non-residential uses allowed in the underlying zoning district are allowed.
 - 4) Mixed-use development is required in the MMUD and is defined to be the following non-residential use of the ground floor: daycare, general offices, recreation for gainful business, restaurant (other/not fast-food), retail sales with less than 5,000 SF gfa, retail services, convenience store, supermarket, medical center, light manufacturing, artist live/work.

B. Dimensional Requirements.

| Overlay District/ Subdistrict | Area (min. sf) | Front setback (ft) | Side setback (ft) | Both Sides setback (ft) | Rear setback (ft) | Min. Usable Open Space (sf lot area /unit) | Max. Building Coverag e (%) | Density (min. sf lot area/unit) | Max. Height (stories) |
|----------------------------------|-------------------|--------------------------|-------------------------|-------------------------------|-------------------------|---|--------------------------------------|---------------------------------------|-----------------------------|
| MCMOD-MC | 5,000 | 0 | 0 | 0 | 0 | 250 | 50 | 525 | 7 |
| MCMOD-MCHR | 5,000 | 0 | 0 | 0 | 0 | 250 | 50 | 235 | 10 |
| MCMOD-OG | 4,000 | 30 | 20 | 40 | 20 | 250 | 50 | 725 | 3 |
| MCMOD-MD | 18,750 | 30 | 20 | 40 | 20 | 250 | 40 | 1200 | 4 |
| MMUD | 5,000 | 0 | 0 | 0 | 0 | 250 | 50 | 400 | 7 |

C. Parking Requirements.

| <i>Parking Requirement</i> | <i>District/subdistrict</i> |
|---|--------------------------------|
| One space per dwelling unit | MCMOD MC, MCMOD MCHR, MCMOD OG |
| Two spaces per dwelling unit | MCMOD MD |
| One space per dwelling unit | MMUD |
| None for non-residential use | MMUD |
| Shared parking for mixed-use developments may be allowed by SPR Review | MCMOD all subdistricts MMUD |

D. **Development Standards.** Proposed Development Standards will be applicable to development in the MCMOD and MMUD. For details, see Section 3 of CCP 418/2023.

E. **Site Plan Review Regulations.** Applicable to development in MCMOD and MMUD; similar to Site Plan Review regulations for RIO/RIO-B and RQRRD; and include submission criteria, Site Plan Review Committee, review schedule, notice, expiration. For details, see Section 4 of CCP 418/2023.

F. **Affordability Requirements.** Applicable to MCMOD and MMUD; require that 15% of all units in projects with eight (8) or more units must be Affordable Housing Units; include most other City Inclusionary Zoning requirements. For details, see Section 5 of CCP 418/2023.

Note 3: The state law does not require affordable housing and allows a maximum affordability requirement of 10%; to include a higher requirement, such as 15% (=Malden IZ) requires completion and submission of an Economic Feasibility Analysis, which the City has worked with its consultants to do.

3. **Section 12.32.060.B (Definitions-Zoning).** Proposed new definitions:

- A. **As of right or By Right.** Approval without the need or requirement for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval. This is expressly defined to exclude Site Plan Review where required by this Ordinance.
- B. **Mixed-use Development.** A development containing a mix of residential uses and non-residential uses, including, commercial, institutional, industrial, or other uses. This definition expressly applies only to development of property located in the MBTA Communities Multi-family Overlay District (MCMOD) or the Mandatory Mixed-Use Overlay District (MMUD).
- C. **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. This definition expressly applies only to development of property located in the MBTA Communities Multi-family Overlay District (MCMOD) or the Mandatory Mixed-Use Overlay District (MMUD).

CURRENT ZONING:

A. **Zoning District (§12.080.010).**

For current zoning district and current use of each of properties included in districts, see attached list.

B. **Use Regulations (§12.12.030).** See Section 12.12 for current use regulations.

- C. Dimensional Controls. See Section 12.16.010 for dimensional controls under existing zoning.
- D. Parking Requirements. See Section 12.20 for parking requirements of existing zoning.
- E. Underlying zoning requirements. The use regulations, dimensional controls, parking requirements and all other provisions governing the respective underlying zoning district(s) shall remain in full force, except for uses allowed as of right or identified in the MCMOD and MMUD.

APPLICATION and EXEMPTIONS: The amendments will apply to new construction and new use /occupancy of existing buildings, unless exempt by a) M.G.L. c. 40A, §6; §12.28.010; b) the express language of the amendment; or c) the subject of a building permit or special permit issued before the first publication of notice of the public hearing on the amendments (November 17, 2023).

Note 4: The property 11 Charles Street is the subject of a special permit granted on June 14, 2023 (SP Case#23-09 for multifamily dwelling with 51 units, offices, restaurant, retail).

Note 5: Per statute, applications for permits in the processing stage when publication occurs are not protected; historically, the City interprets, in consideration of a pending petitioner's good faith reliance on current regulations, that proposed amendments do not apply to applications filed prior to the first publication of the notice of public hearing (date above). There are no pending applications filed prior to this date.

EFFECTIVE DATE: The date of the City Council's vote to ordain the amendment (§12.32.050.F). The Council must act on the amendment within 90 days after the public hearing closes (March 4, 2024, if hearing closes December 5, 2023), otherwise, a new duly advertised public hearing must be held (§12.32.050.D).

STATE DEADLINE: The state has set December 31, 2023 as the deadline for the City (and the eleven other Rapid Transit Communities) to enact zoning that complies with M.G.L.c.40A, §3A.

- City's Interim Compliance (see state Determination dated March 31, 2023) expires December 31, 2023.
- District Compliance Application must be submitted electronically no later than December 31, 2023.

STANDARD of REVIEW: The Planning Board's review and recommendation of the proposed zoning changes should be directed by *substantive planning objectives, community need and general welfare*.

Malden's current zoning laws do not comply with the state law, and the proposed amendments are intended to comply with the requirements of the state law.

Impacts of Non-Compliance.

Malden may face the following economic impacts for failure to amend its zoning to comply with the state law:

- Ineligibility for funding from various state grant sources identified in the state law and guidelines. For details on grant funds previously secured by the City for capital improvement projects, see Mayor's memorandum dated November 9, 2023.
- Legal action by the state (see attached Attorney General Advisory, "Advisory Concerning Enforcement of the MBTA Communities Zoning Law," issued March 15, 2023).

Impacts of Compliance.

Based on the state compliance model, the estimated maximum potential growth of multifamily housing allowed under the proposed zoning is 2,265 units.

Note 6: The state model was designed to allow the state to measure compliance with all requirements.

| MCMOD Subdistricts & MMU District | Unit capacity (set by state law) | Existing units (incl. permitted) | Max. Potential growth | # of Parcels | Acres |
|-----------------------------------|-------------------------------------|-------------------------------------|--------------------------|-----------------|-------|
| Malden Center | 1996 | 1048 | 1069 | 27 | 48.6 |
| Malden Center - High Rise | 473 | 650 | 18 | 4 | 3.5 |
| TOD Medium Density / Oak Grove | 650 | 590 | 219 | 22 | 16.1 |
| Medium Density | 2087 | 2087 | 0 | 9 | 65 |
| Mandatory Mixed-Use | 1724 | 827 | 959 | 34 | 28.8 |
| Total | 6930 | 5202 | 2265 | 96 | 162 |

The City reviewed the impacts of this potential growth on City services and revenue, and found the following estimated impacts may result from this potential growth (2,265 units):

1. Affordable Housing: 337 Affordable Housing Units may be created.
2. Existing land use: Existing land use is largely preserved. Single and two-family homes may not be converted to multi-family dwellings.
3. Open space: 566,000 SF of open space may be created.
4. Traffic: Overall City traffic (based on Vehicles Miles Traveled) may increase by 5%.
5. Fire: 8.5 additional fire staff may be needed.
6. Police: 8.7 additional police staff may be needed.
7. School enrollment: 46 additional students may seek enrollment in Malden schools.
8. Annual property tax revenue: \$8.28 million may be generated.
9. Municipal contribution for school funding. Malden’s contribution may increase by \$5.5 million.

Potential Growth is Expected to be Lower based on Likelihood of Change.

The potential growth is expected to be less than 2,265 units, given market conditions and regional economic issues that affect the likelihood of re/development or change of parcels. Based on a simplified residual land use analysis model developed by the City’s consultants, the estimated potential growth is 1,143 units.

Comprehensive Follow-Up Planning Process. The City will consider additional zoning amendments during a zoning modernization and master planning process recently initiated by the City Council (CCP 352/2023).

Note 7: The proposed amendments incorporate feedback from City officials and staff, vetting by an internal working group, and community input received from a citywide survey [1,529 responses received; 54% do not support more multifamily housing built in Malden; supported locations for growth are Malden Center and Oak Grove area]. For more details see Mayor’s memorandum dated November 9, 2023 and survey results.

PLANNING RECOMMENDATION: (Made prior to the public hearing) That the Planning Board recommends to the City Council:


1. Approval of the proposed amendments of Section 12.08.010 (Establishment of Districts) and Section 12.080.020 (Zoning Map).
2. Approval of the amendments of Section 12.12 (Use Regulations) as proposed and with the following clarifying language (underlined):
 - a) Section 1.C.2.a Permitted Uses in MCMOD
“Only those non-residential uses allowed in the underlying zoning district are allowed, and all non-residential uses shall be subject to the use regulations of the underlying zoning district.”
 - b) Section 4.D.1.b. Site Plan Review Committee:
“City Councilor-at-large, designated by President of the City Council, or designee.”
3. Approval of the proposed amendments of Section 12.32.060.B (Definitions).
4. Prepare legal description of all property/land that is the subject of the amendment and include with any amendment ordained.



Gary Christenson, Mayor

MEMORANDUM

TO: Council President Barbara Murphy
Malden City Council

FROM: Mayor Gary Christenson 

DATE: November 9, 2023

RE: MBTA Communities Zoning Proposal

I write to introduce a zoning amendment proposal which will allow the City to comply with M.G.L. Chapter 40A, Section 3A, the MBTA Communities Law, by the state's December 31, 2023 deadline. This proposal is the culmination of nearly two years of work by the City to develop the zoning required by law that best serves Malden and allows us the opportunity to fully conduct a comprehensive planning and zoning review through a master planning process.

Summary of the Law

By way of background, in 2021, former Governor Charlie Baker signed into law the MBTA Communities Act to address Massachusetts' housing crisis. The law states:

Section 3A. (a)(1) requires 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; provided, however, that such multi-family housing shall be without age restrictions and shall be suitable for families with children. For the purposes of this section, a district of reasonable size shall: (i) have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A; and (ii) be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.

(b) An MBTA community that fails to comply with this section shall not be eligible for funds from: (i) the Housing Choice Initiative as described by the governor in a message to the general court dated December 11, 2017; (ii) the Local Capital Projects Fund established in section 2E of chapter 29; or (iii) the MassWorks infrastructure program established in section 63 of chapter 23A.

(c) The department, in consultation with the Massachusetts Bay Transportation Authority and the Massachusetts Department of Transportation, shall promulgate guidelines to determine if an MBTA community is in compliance with this section.

As part of the law, the state Executive Office of Housing & Livable Communities (EOHLC), formerly known as the Department of Housing and Community Development (DHCD), issued a series of guidelines to explain how to comply with the law. These guidelines classify Malden as a Rapid Transit Community (one of twelve in the state) and require Malden to have zoning that allows multifamily housing by right. The state guidelines set Malden's required unit capacity at 6,930 units (25% of our housing stock per US Census 2020). That said, this proposal is expected to result in lesser growth than the unit capacity, due to existing land uses and regional economic constraints.

The Economic Impacts of Non-Compliance

Failure to comply with the deadline will mean that Malden may be subject to legal action by the state and forfeiture of eligibility for various state grant funding programs in the Fiscal Year 2024 round. In August 2023, EOHLC revised guidelines to expand the list of grant programs that non-compliant communities would be prevented from applying to, including: Community Planning Grants, the Massachusetts Downtown Initiative, Urban Agenda, Rural and Small-Town Development Fund, Brownfields Redevelopment Fund, Site Readiness Program, Underutilized Properties Program, Collaborative Workspace Program, Real Estate Services Technical Assistance, Commonwealth Places Programs, Land Use Planning Grants, Local Acquisitions for Natural Diversity grants, and Municipal Vulnerability Preparedness Planning and Project Grants. I discuss these economic impacts further below.

Malden Has Achieved Interim Compliance

After the MBTA Communities law's passage, the City began the process to determine how Malden could best comply with the law. City staff, led by the Office of Strategic Planning & Community Development Director Deborah Burke and City Planner Michelle Romero, engaged a consultant, Stantec Urban Places, and formed a working group that included City Councillors, to develop a zoning scenario that would comply with the law. As required by the state guidelines, the City filed an Action Plan which was approved by the state, and Malden achieved Interim Compliance on March 31, 2023. The City has also undertaken the required Economic Feasibility Analysis so that we can include our own affordability requirement, which is higher than the state's threshold. Provided the City submits its adopted ordinance to the state by Dec. 31, 2023, the City will maintain Interim Compliance during state review for the Determination of District Compliance.

Community Engagement

Community engagement consisted of numerous public presentations to the City Council, including a public hearing held by the City Council and attended by the Planning Board; newspaper articles in the *Malden Advocate*; a City webpage with information regarding the law and our efforts to comply; and a Citywide survey, available online and hard copy, available in seven languages, and promoted in a variety of ways designed to gather input from all community members. Additionally, notice was posted on electronic signboards in the downtown and the City's social media platforms, distributed electronically to all schools, public and private, and various community and cultural groups, and included with recent water bills. This community engagement allowed us to obtain opinions and input from all stakeholders, including residents and City officials.

Highlights of this Zoning Amendment Proposal

The plan I present to you supports these important objectives:

1. Focuses most potential growth opportunities in downtown Malden, in immediate proximity to the Malden Center MBTA Station.
2. Steers direct impacts out of the neighborhoods, which will alleviate known issues of concern, such as overcrowding, overuse, and parking.
3. Minimizes overall impacts to the City by limiting the size and locations of districts, which is likely to lessen traffic congestion and parking issues.

4. Incentivizes redevelopment of select underutilized parcels in the downtown (example: National Grid site).
5. Includes a Mandatory Mixed-Use district in downtown Malden, which helps us achieve the following goals:
 - Maintains the commercial tax base.
 - Supports existing established businesses (example: Walgreens).
 - Preserves existing mixed-use sites (example: JAG site).
6. Excludes specific properties in the downtown for clear reasons that are in the interest of the public good:
 - Preserves properties with essential uses (example: Stop & Shop Supermarket at 99 Charles Street).
 - Supports recent new business growth initiatives (example: R & D at 200 Exchange Street).
 - Protects properties with important community significance (example: National Register Property, St. Paul's Parish at 18 Washington Street).
7. Includes a Malden Center High Rise subdistrict in downtown to ensure the longevity of core housing sites (example: The Heritage at 195 Pleasant Street).
8. Includes Housing Authority property in the downtown to preserve and incentivize potential growth of affordable and elderly housing (example: 89 Pearl Street).
9. Proposes dimensional controls that correspond with underlying zoning for lot size, height, density, and open space.
10. Reduces parking requirements based on proximity to the MBTA stations.
11. Seeks state approval to increase affordability requirements to mirror our Inclusionary Zoning (15%).
12. Maximizes potential new Affordable Housing by overlaying the new zoning on larger parcels in the downtown to which Inclusionary Zoning will apply.

Master Planning: The Comprehensive Follow Up Process

Throughout the process to develop zoning amendments responsive to the MBTA Communities law, it became clear to me that for Malden, a two-pronged approach is needed. Based on feedback received from the state during the pre-approval review process, we are confident this proposal complies with the MBTA Communities law, and after successful passage through our zoning amendment process this proposal will be submitted to the state for final Determination of District Compliance. I see this as the first prong. With that said, the second prong is to follow up with a more comprehensive zoning and planning process. During a master planning process, we can discuss the ideas and suggestions that we heard during our work to comply with the MBTA Communities law. To build consensus and reconcile varying opinions with appropriate thoughtfulness, additional community engagement is necessary to fully vet our options. This will no doubt require an extensive process that takes time and effort and should not be driven by the state-imposed MBTA Communities law deadline. This is exactly the master planning process recently proposed by the City Council in City Council Paper 352/2023. I fully support this process.

The Importance of a Timely Plan Submission

I understand that some communities, and perhaps some within our community, may not be concerned with missing the law's year-end deadline. I don't agree.

Missing this deadline would mean we are ineligible for funding for numerous state grant programs for all of 2024. Malden routinely applies for and is often successful in securing these funds for its capital improvement projects. Just recently, we were awarded a Municipal Vulnerability Preparedness (MVP) grant of almost \$3 million and a \$300,000 Housing Choice grant to assist with the Malden River Works project. Over the years, we have extensively utilized the MassWorks infrastructure program, including almost \$9 million that was provided to facilitate the reopening of Pleasant Street, and a pending \$4 million award for improvements to Salem Street and Overlook Ridge Drive. In short, these grant programs provide real financial assets to our community, and we should not be willing to put them even marginally at risk by not meeting this law's compliance deadline.

I urge you to pass the zoning amendments as proposed to comply with the law and meet the December 31, 2023 deadline. We can then collectively begin the master planning process that was identified by many of you and the community as being critical to any additional changes to our zoning laws.

Attachment: MBTA Communities Zoning Proposal

Be It Hereby Ordained that Title 12 of the Code of the City of Malden be further amended as follows:

- I. To amend Section 12.08.010 (ESTABLISHMENT of DISTRICTS) and to amend Section 12.08.020 (ZONING MAP) to establish the MBTA Communities Multi-Family Overlay District (MCMOD) and Mandatory Mixed-use Overlay District (MMUD) to include those parcels identified in the attached list and shown on the attached map, "City of Malden MBTA COMMUNITIES ZONING Overlay Districts 11/9/23 MCMOD - MMUD Boundary Map."
- II. To amend Section 12.12 (USE REGULATIONS) to add a new Section 12.12.400, MBTA COMMUNITIES ZONING OVERLAYS, as follows:

1. MBTA Communities Multi-Family Overlay District (MCMOD).

A. Purpose and Intent.

The purpose of the Massachusetts Bay Transportation Authority (MBTA) Communities Multi-Family Overlay District (MCMOD) is to allow Multi-family Housing as of right, as defined by this Ordinance and in accordance with Massachusetts General Laws Chapter 40A, Section 3A and the state *Compliance Guidelines for Multi-Family Zoning Districts Under Section 3A of the Zoning Act* as further revised or amended from time to time. The intent of this MCMOD is to accomplish the following objectives:

1. To focus multifamily growth opportunities in downtown Malden, in immediate proximity to the Malden Center MBTA Station, and to minimize impacts to the neighborhoods, such as overcrowding, overuse, and parking.
2. To encourage multi-family housing within walking distance of public transit and specifically, Malden Center MBTA Station and Oak Grove MBTA Station, to promote general public health, reduce the number of vehicular miles travelled, lessen traffic congestion and parking issues, and support economic development.
3. To ensure the longevity of core existing multifamily, elderly and affordable housing sites in the downtown, Oak Grove area, upper Broadway corridor and at Overlook Ridge.
4. To maximize and incentivize the development of Affordable Housing.

B. Applicability.

1. General. Property located within the MCMOD may be developed as of right for Multi-family Housing, only in accordance with the provisions of this Section.
2. Establishment. The boundaries of the MCMOD are established and shown on the City Zoning Map and MCMOD - MMUD Boundary Map.
3. Underlying Zoning. The MCMOD is an overlay district superimposed over underlying zoning districts. The use regulations, dimensional controls, parking requirements and all other provisions of the Zoning Ordinance governing the respective underlying zoning district(s) shall remain in full force, except for uses allowed as of right in the MCMOD. Uses that are not identified in this Section are governed by the requirements of the underlying zoning district(s).
4. Subdistricts. The MCMOD contains the following MCMOD Subdistricts, which are areas within the MCMOD that are geographically smaller than the MCMOD district and differentiated from the rest of the district by use, dimensional and parking requirements; and which are shown on the MCMOD - MMUD Boundary Map:

- a. MCMOD-MC – Malden Center
 - b. MCMOD-MCHR – Malden Center High Rise
 - c. MCMOD-OG – Oak Grove
 - d. MCMOD-MD – Medium density
5. Site Plan Review. All Multi-family Housing and Mixed-use Development in the MCMOD are subject to Site Plan Review, as provided by this Section.

C. Permitted Uses.

Only the following uses are permitted within the MCMOD:

- 1. Multi-family Housing is allowed in all MCMOD subdistricts.
- 2. Mixed-use Development is allowed in all MCMOD subdistricts and shall be subject to the following:
 - a. Only those non-residential uses allowed in the underlying zoning district are allowed.
 - b. Allowed non-residential uses are only allowed on the ground floor.

D. Dimensional Requirements.

Multi-family Housing in the MCMOD shall comply with the following dimensional requirements:

| MCMOD Subdistrict | Area (min. sf) | Front setback (ft) | Side setback (ft) | Both Sides setback (ft) | Rear setback (ft) | Min. Usable Open Space (sf lot area /unit) | Max. Building Coverage (%) | Density (min. sf lot area/unit) | Max. Height (stories) |
|-------------------|----------------|--------------------|-------------------|-------------------------|-------------------|--|----------------------------|---------------------------------|-----------------------|
| MCMOD-MC | 5,000 | 0 | 0 | 0 | 0 | 250 | 50 | 525 | 7 |
| MCMOD-MCHR | 5,000 | 0 | 0 | 0 | 0 | 250 | 50 | 235 | 10 |
| MCMOD-OG | 4,000 | 30 | 20 | 40 | 20 | 250 | 50 | 725 | 3 |
| MCMOD-MD | 18,750 | 30 | 20 | 40 | 20 | 250 | 40 | 1200 | 4 |

E. Parking Requirements.

- 1. Off-street parking shall be provided for Multi-family Housing in the MCMOD in accordance with the following schedule:

| MCMOD Subdistrict | Minimum number of off-street parking spaces per dwelling unit |
|-------------------|---|
| MCMOD-MC | 1 |
| MCMOD-MC HR | 1 |
| MCMOD-OG | 1 |
| MCMOD-MD | 2 |

- 2. Required parking shall be provided for the use of the tenants and/or occupants of the property.
- 3. Required parking shall be provided onsite either in surface parking or within garages or other structures.
- 4. Shared Parking within a Mixed-Use Development. Parking requirements for a Mixed-use Development on a single site may be adjusted through the Site Plan Review process, if the developer can demonstrate that shared spaces will meet parking demands by using accepted methodologies.

2. Mandatory Mixed-use Overlay District (MMUD).

A. Purpose and Intent.

The purpose of the Mandatory Mixed Use overlay district (MMUD) is to allow as of right Mixed-use Development in downtown Malden, as defined by this Ordinance and in accordance with Massachusetts General Laws Chapter 40A, Section 3A and the state *Compliance Guidelines for Multi-Family Zoning Districts Under Section 3A of the Zoning Act* as further revised or amended from time to time. The intent of this MMUD is to achieve the following objectives:

1. Maintain the commercial tax base.
2. Support existing established businesses.
3. Preserve existing mixed-use sites.
4. Incentivize development of underutilized sites.

B. Applicability.

1. **General.** Property located within the MMUD may be developed for Multi-family Housing with non-residential use of the ground floor, in accordance with the provisions of this Section.
2. **Establishment.** The boundaries of the MMUD are established and shown on the City Zoning Map and MCMOD-MMUD Boundary Map.
3. **Underlying Zoning.** The MMUD is an overlay district superimposed on underlying zoning districts. The use regulations, dimensional controls, parking requirements and all other provisions of the Zoning Ordinance governing the respective underlying zoning district of a property shall remain in full force, except for uses allowed as of right in the MMUD. Uses that are not identified in this Section are governed by the requirements of the underlying zoning district(s).
4. **Site Plan Review.** All Mixed-use Development in the MMUD is subject to Site Plan Review, as provided by this Section.

C. Permitted Uses.

Only the following uses are permitted within the MMUD.

1. **Mixed-use Development, including required uses below:**
 - a) Multi-family Housing on all floors other than ground floor; and
 - b) Non-residential use of the ground floor. Any of (or a combination of) the below uses shall be included in the Mixed-use Development on the ground floor use, in addition to Multi-family Housing on the upper floors:
 1. **Institutional Use**
 - a. Day Care Center
 2. **Business Use**
 - a. Medical Center
 - b. Offices, General
 - c. Recreation, Gainful Business
 - d. Restaurant, All Other
 - e. Retail Sales, less than 5,000 sq. feet gross floor area
 - f. Retail Services
 - g. Convenience Store
 - h. Supermarket

- 3. Industrial Use
 - a. Light manufacturing
- 4. Other Use
 - a. Artist Live/Work Space

D. Dimensional Requirements.

Mixed-use Development in the MMUD shall comply with the following dimensional requirements:

| Area (min. sf) | Front setback (ft) | Side setback (ft) | Both Sides setback (ft) | Rear setback (ft) | Min. Usable Open Space (sf/dwelling unit) | Max. Building Coverage (%) | Density (min. sf lot area/ unit) | Max Height (stories) |
|----------------|--------------------|-------------------|-------------------------|-------------------|---|----------------------------|----------------------------------|----------------------|
| 5,000 | 0 | 0 | 0 | 0 | 250 | 50 | 400 | 7 |

E. Parking Requirements.

- 1. Multi-family Housing. One (1) offstreet parking space per dwelling unit shall be required for the Multi-family Housing component of a Mixed-use Development in the MMUD, and parking shall be permitted by use, either in surface parking or within garages or other structures onsite.
- 2. Non-residential Use. No offstreet parking is required for the non-residential component of a Mixed-use Development in the MMUD.
- 3. Shared Parking within a Mixed-Use Development. Parking requirements for a Mixed-use Development on a single site may be adjusted through the Site Plan Review process, if the developer can demonstrate that shared spaces will meet parking demands by using accepted methodologies.

3. Development Standards for MCMOD and MMUD.

- A. These development standards are applicable to all Multi-family Housing and Mixed-use Development in the MCMOD and all Mixed-use Development in the MMUD. These development standards shall be considered to the Site Plan Review Criteria.
- B. Site Design.
 - 1. Connections. Sidewalks shall provide a direct connections among building entrances, the public sidewalk (if applicable), bicycle storage, and parking.
 - 2. Vehicular access. Where feasible, curb cuts shall be minimized, and shared driveways encouraged.
 - 3. Open Space. Minimum usable open space required by this Section shall be provided onsite.
 - 4. 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 6 (six) 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.
 - 5. 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.

6. 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.
7. 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.
8. Mechanicals. Mechanical equipment at ground level shall be screened visually by a combination of fencing and plantings and for noise reduction. Rooftop mechanical equipment shall be screened if visible from a public right-of-way and shall be screened for noise reduction.
9. Dumpsters. Dumpsters shall not be permitted in the front yard, shall not be located along property lines and 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.
10. 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 Malden MS4 Permit for projects that disturb more than one acre and discharge to the City's municipal stormwater system, and an Operations and Management Plan for both the construction activities and ongoing post-construction maintenance and reporting requirements.

C. Buildings: General

1. Position relative to principal street. The primary building shall have its principal façade and entrance facing the principal street. See also this Section re: Buildings: Corner Lots.
2. Entries. Where feasible, entries shall be clearly defined and linked to a paved pedestrian network that includes the public sidewalk.

D. Buildings: Multiple buildings on a lot.

1. For a Mixed-use Development, uses may be mixed within the buildings or in separate buildings.
2. 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.
3. A paved pedestrian network shall connect parking to the entries to all buildings and the buildings to each other.
4. 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.
5. The building(s) adjacent to the public street shall have a pedestrian entry facing the public street.

E. Buildings: Mixed-use Development

1. In a Mixed-use Development 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.
2. Paved pedestrian access from the residential component shall be provided to residential parking and amenities and to the public sidewalk, as applicable.
 3. Materials for non-residential uses shall be stored inside or under cover and shall not be accessible to residents of the development.
 4. 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.
- F. Buildings: Shared outdoor space
1. Multi-family Housing and Mixed-use Development shall have common outdoor space that all residents can access.
 2. Shared outdoor space may be located in any combination of ground floor, courtyard, rooftop, or terrace.
 3. Shared outdoor space shall count towards the project's minimum open space requirement.
- G. Buildings: Corner lots.
1. 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.
 2. Such entries shall be connected by a paved surface to the public sidewalk, if applicable.
 3. All façades visible from a public right-of-way shall be treated with similar care and attention in terms of entries, fenestration, and materials.
 4. Fire exits serving more than one story shall not be located on either of the street-facing façades
- H. Buildings: Infill lots.
1. If the adjacent buildings are set back at a distance that exceeds the minimum front yard requirements, infill buildings shall meet the Dimensional Standards of this Section. 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.
- I. Buildings: Principal Façade and Parking.
1. Parking shall be subordinate in design and location to the principal building façade.
 2. 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.
 3. Integrated garages. The principal pedestrian entry into the building shall be more prominent in design and placement than the vehicular entry into the garage.
 4. 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.

4. Site Plan Review for MCMOD and MMUD.

- A. Applicability. Site Plan Review is required for all Multi-family Housing and Mixed-use Development using the MCMOD and MMUD.

B. Relationship to the Building Permit and Occupancy Permit. The Building Inspector shall not issue a building permit unless and until a Site Plan Review has been completed, and a letter with site plan conditions, if any, has been forwarded to the Building Inspector by the SPRC within the time frame noted in this Section. If the site plan review letter contains specific conditions, said conditions shall become conditions for the issuance of the building permit, among others, that the Building Inspector may require. Further, the Building Inspector shall not issue a final occupancy permit unless and until all site plan conditions as required by the SPRC have been implemented by the developer.

C. Site Plan Submission Criteria: The applicant shall submit 10 reduced-size (11 x 17") copies and one to-scale copy of a site plan proposal drawn at a scale not to exceed one-inch equals 20 feet (1"=20'). The Site Plan Review materials shall be submitted to the City Planner; said office shall forward all materials to the Site Plan Review Committee. A registered Professional Surveyor or registered Professional Engineer must stamp the submitted site plan. At a minimum, the submittal materials shall include the following items as applicable:

1. a cover letter generally describing the nature and location of the project;
2. parcel lot lines for the proposed project and abutting parcels; and all easements boundaries, if any;
3. proposed parking plan including location of access and egress; location of snow storage areas;
4. location of existing and proposed buildings and public/private ways on the project site;
5. location of solid waste containers, if any;
6. Proposed landscaping;
7. location and description of open space;
8. fencing, walls, and existing and proposed lighting;
9. location, material, and size of all signs.
10. All required improvements specified in this Section under Development Standards.
11. All Submission requirements for Inclusionary Development, as stated in this Section (Affordability Requirements).

D. Site Plan Review Committee for MCMOD and MMUD.

1. Composition. The Site Plan Review Committee (SPRC) shall be comprised of the following seven (7) members:
 - a. Mayor or Mayor's designee
 - b. City Councilor-at-large, designated President of the City Council or designee
 - c. Ward Councilor representing the property
 - d. Director or designee of the Office of Strategic Planning & Economic Development
 - e. Chairman of the Planning Board or designee
 - f. City Planner or designee
 - g. City Engineer or designee

The City Councilor-at-Large shall serve as the Chairman of the SPRC.

2. Operation.

- a. The following city departments or agencies may provide written recommendations to the SPRC a minimum of seven (7) days prior to a public project review meeting:

Inspectional Services, Public Works, Fire Department, Police, Board of Health, Conservation Commission.

- b. The SPRC may request assistance of architects and engineers and other professionals during its deliberations and require that the applicant assist in paying for review costs consistent with Mass. Gen. Laws, Chapter 44, §53G.
 - c. Only SPRC members may be party to any vote or agreement.
 - d. A majority of those present shall be required to approve any and all site plan review conditions applied to a development under review.
 - e. A quorum for conducting business shall be 100% of the members.
3. Review Schedule: The SPRC shall hold a public project review meeting with the applicant no later than 45 days after submitting the proposed site plan to the City Planner. The SPRC shall hold as many meetings as necessary within a 65-day review period to review the proposal. However, within 65 days of the submission of the plan to the City Planner the SPRC shall provide recommendations in writing to the Building Inspector. If no action is taken within 65 days, the application shall be deemed approved as submitted and the applicant may apply for a building permit without a Site Plan Review letter.
 4. Notice: Notice of the public project review meeting shall be given in accordance with the provisions of this Ordinance. The public shall be given the opportunity to be heard at the public project review meeting.
 5. Appeals: Applicants for a Site Plan Review may appeal any and all conditions approved by the SPRC to the Malden Board of Appeal. However, in no instance shall this administrative site plan approval process be construed as a special permit for the purpose of any appeal.
 6. Expiration: A Site Plan Review approval will expire on the date that is one year from date of notice of Site Plan Approval to the Building Inspector unless a building permit has been issued or unless otherwise specified by the Site Plan Review Committee.

5. Affordability Requirement for MCMOD and MMUD.

- A. Purpose. In accordance with the findings and goals of the Malden Housing Needs Assessment of 2019, Inclusionary Zoning Feasibility Study of 2021, Affordable Housing Trust Fund Action Plan of 2021, and the Malden Master Plan of 2010, the purpose of this Section is to promote the development of permanent Affordable Housing in order to improve housing stability for low- and moderate-income households, mitigate the impacts of new residential development on the availability and cost of housing, and maintain an economically integrated community by promoting diverse affordable housing opportunities throughout Malden.
- B. Applicability
 1. The inclusionary zoning provisions of this Section shall apply to all projects and developments in all zoning districts, including the MCMOD and MMUD, that result in:

- a. a net increase of eight (8) or more dwelling units, whether created, in whole or in part, through new construction in one or more buildings, and/or by alteration, extension, reconstruction, structural change or change of use of an existing building or buildings;
 - b. a net increase of eight (8) or more dwelling lots created through any subdivision of land; and
 - c. a net increase of eight (8) or more assisted living units in any nursing/convalescent home or other development.
2. Projects and developments shall not be segmented or phased in a manner to avoid compliance with the provisions of this Section. These provisions apply to the creation of units over a five-year period.
 3. The provisions of this Section are intended to supplement other applicable provisions of the City's zoning ordinance, Title 12 of the Code of City of Malden (the Ordinance), and do not supersede any other provision of the Ordinance unless expressly provided herein.
 4. All provisions of this Section are use regulations and there shall be no variance of any provision.
- C. **Mandatory Provision of Affordable Housing Units.** An Inclusionary Development shall provide a minimum of fifteen (15) percent of the total number of dwelling units as Affordable Housing Units.
- D. **Development Standards.** An Inclusionary Development shall comply with the following Development Standards:
1. **Ratio of Rental- to Owner-Occupied Affordable Housing Units.** The ratio of rental- to owner-occupied Affordable Housing Units within the Inclusionary Development shall be the same as the ratio of rental- to owner-occupied market-rate units;
 2. **Mix of Affordable Housing Units.** The bedroom mix of Affordable Housing Units within the Inclusionary Development shall be proportionally equal to the bedroom mix of market-rate units, i.e., studios, one-bedroom, two-bedroom, and/or three-bedroom units;
 3. **Siting of Affordable Housing Units.** Affordable Housing Units shall be sited within the Inclusionary Development so as not to be in less desirable locations than market-rate units, shall be distributed evenly throughout the project, and shall be, on average, no less accessible to building features and public amenities, such as open space, parking, laundry facilities, access/egress, as market-rate units;
 4. **Design and Construction Standards.** Affordable Housing Units within an Inclusionary Development shall be compatible in design, appearance, construction, and quality of materials with market-rate units. Interior features and mechanical systems of Affordable Housing Units shall conform to the same specifications as applicable to market-rate units; and
 5. **Timing of Construction.** Affordable Housing Units within the Inclusionary Development shall be developed and completed coincident to the development and completion of market-rate units.
- E. **Alternative Methods of Compliance.**
1. **In-Lieu Payment.** A developer may make a one-time cash payment to the Affordable Housing Trust Fund of three hundred thousand dollars (\$300,000) per required Affordable Housing Unit in lieu of providing the required Affordable Housing Units. This fee shall be adjusted for inflation annually based on the change in the Consumer Price Index for All

Urban Consumers (CPI-U) Housing Index for the Boston-Cambridge-Newton, MA-NH area or any successor index. The City of Malden shall update and publish the adjusted fee-in-lieu annually beginning on July 1, 2022.

2. Fractional Units. Where the required number of Affordable Housing Units results in a fraction of a unit, the required number shall either be, rounded down to the nearest whole number and the difference shall be realized as a cash payment made to the Affordable Housing Trust Fund equal to the fractional unit multiplied by the current fee in lieu, or rounded up to the nearest whole number.
 3. Conveyance of Land and/or Buildings. The conveyance of land and/or buildings in lieu of providing Affordable Housing Units shall not be accepted as an alternative form of compliance.
- F. Household Eligibility. An Inclusionary Development shall comply with the following regulations:
1. Rental. For Inclusionary Developments with rental Affordable Housing Units, all required Affordable Housing Units shall be reserved for households earning income up to fifty percent (50%) of the median income of the Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area published annually by the U.S. Department of Housing and Urban Development. Additional Affordable Housing Units beyond the required fifteen percent (15%) shall be reserved for households earning up to eighty percent (80%) of the median income of the Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area published annually by the U.S. Department of Housing and Urban Development.
 2. Homeownership. For Inclusionary Developments with homeownership Affordable Housing Units, all required Affordable Housing Units shall be reserved for households earning income of fifty-one percent (51%) to eighty percent (80%) of the median income of the Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area published annually by the U.S. Department of Housing and Urban Development. Additional Affordable Housing Units beyond the required fifteen percent (15%) shall be reserved for households earning up to one hundred percent (100%) of the median income of the Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area published annually by the U.S. Department of Housing and Urban Development.
 3. Local Preference. To the maximum extent permitted by law, including the regulations of the Department of Housing and Community Development or any successor agency, any special permit granted hereunder shall include a condition that a preference for Malden residents shall be included as part of the lottery and marketing plan for the Affordable Housing Units.
- G. Affordability. An Inclusionary Development shall comply with the following regulations:
1. Rental. For Affordable Housing Units, payment of housing and related costs (including utility costs for heat, electricity, water, and hot-water, and including access to all amenities that are typically offered to a tenant in the building, such as parking, access to an onsite gymnasium, and other such amenities) shall be set at a level not to exceed thirty percent (30%) of annual gross income for the renting household.
 2. Homeownership. For homeownership Affordable Housing Units, the maximum sales price for initial purchase and subsequent sales shall be set at a level such that housing related costs (including utility costs for heat, electricity, water, and hot-water, mortgage payments, insurance, real estate taxes, and condominium fees) do not exceed thirty percent (30%) of the purchasing household's annual gross income.

3. Preservation of Affordability. Affordable Housing Units required by and provided under the provisions of this ordinance shall remain affordable to the designated income group in perpetuity, or for as long as legally permissible. Sales prices, resale prices, initial rents, and rent increases for the Affordable Housing Units shall be restricted by legally permissible instruments such as, but not limited to, deed covenants or restrictions, contractual agreements, or land trust arrangements, to ensure long-term affordability and compliance with this Ordinance.
4. Right of First Refusal. The developer of an affordable homeownership unit developed as a result of this ordinance shall agree to execute a deed rider consistent with model riders prepared by Department of Housing and Community Development, granting, among other things, the Affordable Housing Trust Fund's right of first refusal to purchase the property at the point of original sale or any subsequent resale in the event that a qualified purchaser cannot be located, or in the event of a foreclosure on the property.

H. Administration.

1. Submission Requirements. An Inclusionary Development shall submit the following with its application for Site Plan Review:
 - a. Narrative that describes compliance with the Development Standards of this Section.
 - b. Narrative that identifies any proposed Alternative Methods of Compliance, including the reasons for the request and supporting documentation.
 - c. Lottery Plan for Affordable Units that includes Local Preference required by this Section.
 - d. Marketing Plan for Affordable Units that includes Local Preference required by this Section.
 - e. Draft legal instruments that describe Preservation of Affordability required by this Section.
 2. Outside Consultants. The SPRC may hire and employ an outside consultant to assist the SPRC in its review of the application, any study and supporting documentation submitted in conjunction with an application for Site Plan Review, including conducting a peer review and analysis of any study or documentation, and the fees for the employment of said consultant shall be reasonable and paid to the City by the petitioner or applicant in advance of the consultant services being performed, and in accordance with M.G.L. c. 44, Section 53G.
 3. Occupancy Permit. Notwithstanding any other provisions of this Ordinance or local, state or federal law, no occupancy permit for an Inclusionary Development shall be issued, in whole or in part, until all Affordable Units are created and the legal instruments that ensure Preservation of Affordability are recorded.
 4. The developer/owner of an Inclusionary Development shall provide the City with required information to submit the application to the DHCD for inclusion of the Affordable Housing Units on the City's SHI before the issuance of the certificates of occupancy for the Affordable Housing Units.
- I. Relationship to SHI. The Affordable Housing Units shall qualify as local action units in compliance with the provisions of 760 CMR for inclusion on the Subsidized Housing Inventory (SHI) or any successor inventory. Failure to gain approval to maintain compliance with the criteria for inclusion on the SHI, or removal of an Affordable Housing Unit from the SHI for any reason, shall be deemed to be noncompliance with this Ordinance.

J. Compliance and Monitoring.

1. Rental. Developers/owners of Inclusionary Developments with rental Affordable Housing Units shall be required to submit to the City of Malden an annual statement of rent level, rental income, verification of tenant income, and any other information necessary to confirm compliance with the requirements of this ordinance.
2. Homeownership. If the owner shall desire to sell, dispose of, or otherwise convey a homeownership Affordable Housing Unit, the owner shall notify the City of Malden prior to listing the property for-sale to ensure compliance with the requirements of this ordinance.
3. The City of Malden shall have the authority to develop standards and procedures appropriate to and consistent with the compliance and monitoring provisions of this Section.

III. **To amend Section 12.32.060.B, MCC (Definitions-Zoning) to add the following:**

As of right or By Right. Approval without the need or requirement for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval. This is expressly defined to exclude Site Plan Review where required by this Ordinance.

Mixed-use Development. A development containing a mix of residential uses and non-residential uses, including, commercial, institutional, industrial, or other uses. This definition expressly applies only to development of property located in the MBTA Communities Multi-family Overlay District (MCMOD) or the Mandatory Mixed-Use Overlay District (MMUD).

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. This definition expressly applies only to development of property located in the MBTA Communities Multi-family Overlay District (MCMOD) or the Mandatory Mixed-Use Overlay District (MMUD).

| Property Address | City Assessor's Parcel ID | MCMOD Subdistrict |
|----------------------|---------------------------|-------------------|
| 11 CANAL ST | 053 235 507 | MCMOD MC |
| 35 CANAL ST | 053 255 508 | MCMOD MC |
| CENTRE ST | 053 235 502 | MCMOD MC |
| 63-65 CENTRE ST | 052 277 701 | MCMOD MC |
| 124 CENTRE ST | 053 235 506 | MCMOD MC |
| 11 CHARLES ST | 054 237 707 | MCMOD MC |
| 17 CHARLES ST | 054 237 709 | MCMOD MC |
| COMMERCIAL ST | 053 235 501B | MCMOD MC |
| 102 COMMERCIAL ST | 053 235 501A | MCMOD MC |
| 40- 66 EXCHANGE ST | 052 277 709 | MCMOD MC |
| 70- 76 EXCHANGE ST | 052 277 706 | MCMOD MC |
| 100- 150 EXCHANGE ST | 052 277 703 | MCMOD MC |
| 10 FLORENCE ST | 051 253 327 | MCMOD MC |
| 39 FLORENCE ST | 051 252 211 | MCMOD MC |
| 99 FLORENCE ST | 050 280 001 | MCMOD MC |
| 7 JACKSON ST | 051 278 802W | MCMOD MC |
| MAIN ST | 050 259 905 | MCMOD MC |
| 32 PEARL ST | 031 133 302 | MCMOD MC |
| 89 PEARL ST | 030 136 615 | MCMOD MC |
| 100 PEARL ST | 031 133 301 | MCMOD MC |
| 83 PLEASANT ST | 050 257 701 | MCMOD MC |
| 95-105 PLEASANT ST | 050 256 604 | MCMOD MC |
| 110-112 PLEASANT ST | 052 274 401 | MCMOD MC |
| RAMSDELL RD | 049 279 931 | MCMOD MC |
| 10-20 SUMMER ST | 022 132 201 | MCMOD MC |
| 7 WASHINGTON ST | 050 256 601 | MCMOD MC |
| 17-19 WASHINGTON ST | 050 256 602 | MCMOD MC |

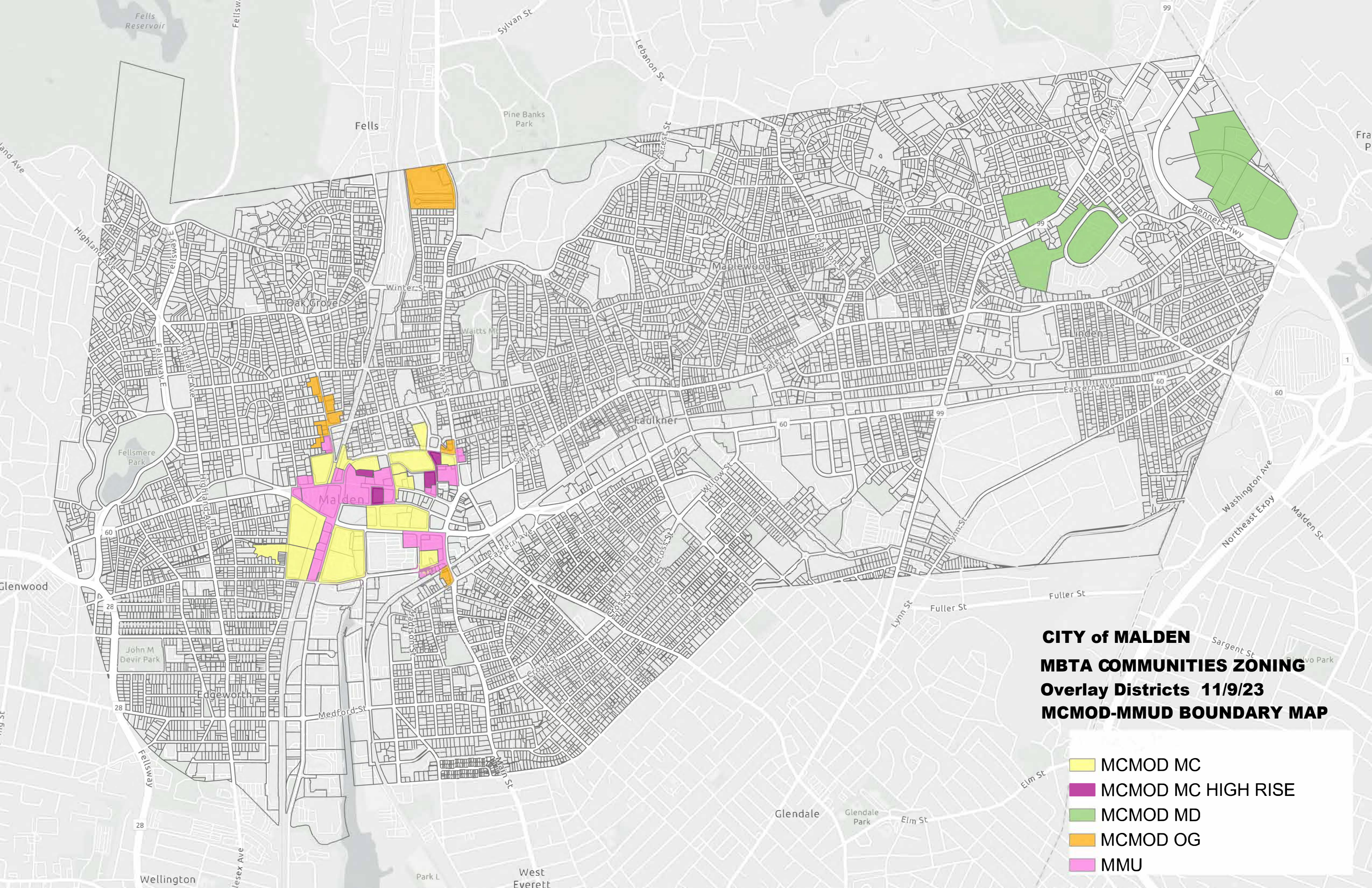
| | | |
|------------------|-------------|------------|
| 36 DARTMOUTH ST | 050 257 703 | MCMOD MCHR |
| 504- 514 MAIN ST | 050 259 906 | MCMOD MCHR |
| 160 PLEASANT ST | 051 275 503 | MCMOD MCHR |
| 195 PLEASANT ST | 051 252 217 | MCMOD MCHR |

| Property Address | City Assessor's Parcel ID | District |
|----------------------|---------------------------|----------|
| 12 BICKFORD RD | 074 260 012 | MMUD |
| 167-169 CENTRE ST | 054 237 703 | MMUD |
| 185 CENTRE ST | 054 237 711 | MMUD |
| 0 CHARLES ST | 062 239 913 | MMUD |
| 22 CHARLES ST | 062 239 912 | MMUD |
| 28-30 CHARLES ST | 062 239 911 | MMUD |
| 36 CHARLES ST | 062 239 910 | MMUD |
| 31 COMMERCIAL ST | 031 250 003 | MMUD |
| 51 COMMERCIAL ST | 031 234 402 | MMUD |
| 65 COMMERCIAL ST | 031 234 405 | MMUD |
| 77 COMMERCIAL ST | 031 234 404 | MMUD |
| 89 COMMERCIAL ST | 031 234 403 | MMUD |
| 99-109 COMMERCIAL ST | 031 234 401 | MMUD |
| 43 DARTMOUTH ST | 050 259 904 | MMUD |
| 4- 6 EVELYN Place | 022 130 030 | MMUD |
| 2 FLORENCE ST | 051 253 326 | MMUD |
| 0 MAIN ST | 062 239 914 | MMUD |

| Property Address | City Assessor's Parcel ID | MCMOD Subdistrict |
|-------------------|---------------------------|-------------------|
| 5 ISLAND HILL AV | 044 855 505A | MCMOD OG |
| MAIN ST | 062 308 810 | MCMOD OG |
| MAIN ST | 062 308 811 | MCMOD OG |
| 244-248 MAIN ST | 062 308 815 | MCMOD OG |
| 260 MAIN ST | 062 308 813 | MCMOD OG |
| 550 MAIN ST | 049 279 929 | MCMOD OG |
| 556 MAIN ST | 049 279 928 | MCMOD OG |
| 1038 MAIN ST | 044 855 510 | MCMOD OG |
| 1100 MAIN ST | 044 855 507 | MCMOD OG |
| 1128 MAIN ST | 044 855 506 | MCMOD OG |
| 30-32 MAPLE ST | 022 130 018 | MCMOD OG |
| 33 MAPLE ST | 020 120 015 | MCMOD OG |
| 36 MAPLE ST | 022 130 015 | MCMOD OG |
| RAMSDELL RD | 049 279 932 | MCMOD OG |
| SUMMER ST | 020 120 012 | MCMOD OG |
| 74-80B SUMMER ST | 020 120 014 | MCMOD OG |
| 82 SUMMER ST | 020 120 013 | MCMOD OG |
| 89 SUMMER ST | 021 118 801 | MCMOD OG |
| 101-109 SUMMER ST | 021 117 701 | MCMOD OG |
| 117 SUMMER ST | 021 117 702 | MCMOD OG |
| 120 SUMMER ST | 020 119 907 | MCMOD OG |
| 134 SUMMER ST | 020 116 612 | MCMOD OG |

| | | |
|----------------------|---------------|----------|
| 474-488 BROADWAY | 151 627 770 | MCMOD MD |
| 10 OVERLOOK RIDGE DR | 181 575 502 | MCMOD MD |
| 51 OVERLOOK RIDGE DR | 185 575 580 | MCMOD MD |
| 181 KENNEDY DRIVE | 162 571 189X | MCMOD MD |
| 244 KENNEDY DRIVE | 162 571 1892Z | MCMOD MD |
| 8 QUARRY LANE | 185 575 570 | MCMOD MD |
| 12 QUARRY LANE | 186 575 507 | MCMOD MD |
| 15 QUARRY LANE | 186 575 510 | MCMOD MD |
| 4 STONE LANE | 186 575 505 | MCMOD MD |

| Property Address | City Assessor's Parcel ID | District |
|---------------------------|---------------------------|----------|
| 290- 312 MAIN ST | 054 237 706 | MMUD |
| 480 MAIN ST | 050 259 908 | MMUD |
| 492- 500 MAIN ST | 050 259 907 | MMUD |
| 521- 539 MAIN ST | 074 260 013 | MMUD |
| 69 MIDDLESEX ST | 054 236 604 | MMUD |
| PLEASANT ST | 031 133 309 | MMUD |
| 41- 49 PLEASANT ST | 050 257 710 | MMUD |
| 51- 61 PLEASANT ST | 050 257 709 | MMUD |
| 126-150 PLEASANT ST | 051 275 504 | MMUD |
| 137-147 PLEASANT ST | 051 252 215 | MMUD |
| 157 PLEASANT ST | 051 252 214 | MMUD |
| 169-185 PLEASANT ST | 051 252 216 | MMUD |
| 190, 205, 215 PLEASANT ST | 051 275 510 | MMUD |
| 321 PLEASANT ST | 022 130 001 | MMUD |
| 332 PLEASANT ST | 031 133 308 | MMUD |
| 50- 52 SUMMER ST | 022 130 020 | MMUD |
| 54- 72 SUMMER ST | 022 130 019 | MMUD |



CITY of MALDEN
MBTA COMMUNITIES ZONING
Overlay Districts 11/9/23
MCMOD-MMUD BOUNDARY MAP

- MCMOD MC
- MCMOD MC HIGH RISE
- MCMOD MD
- MCMOD OG
- MMU

| Property Address | City Assessor's Parcel ID | Proposed Zoning Subdistrict | Existing Use | Current Zoning District |
|----------------------|---------------------------|-----------------------------|---|-------------------------|
| 11 CANAL ST | 053 235 507 | MCMOD MC | bldg, constr., contractor; motor vehicle repair | I2 |
| 35 CANAL ST | 053 255 508 | MCMOD MC | retail sales | I2 |
| CENTRE ST | 053 235 502 | MCMOD MC | public service corp. | I2 |
| 63-65 CENTRE ST | 052 277 701 | MCMOD MC | public service corp. | CB/RIO-B |
| 124 CENTRE ST | 053 235 506 | MCMOD MC | motor vehicle repair shop | I2 |
| 11 CHARLES ST | 054 237 707 | MCMOD MC | multifamily (51 units/5 stories) offices, retail (approved) | CB |
| 17 CHARLES ST | 054 237 709 | MCMOD MC | motor vehicle repair shop, retail services, offices | CB |
| COMMERCIAL ST | 053 235 501B | MCMOD MC | public service corp. | I2 |
| 102 COMMERCIAL ST | 053 235 501A | MCMOD MC | public service corp. | I2 |
| 40- 66 EXCHANGE ST | 052 277 709 | MCMOD MC | municipal parking garage | CB/RIO-B |
| 70- 76 EXCHANGE ST | 052 277 706 | MCMOD MC | recreational for gainful business | CB/RIO-B |
| 100- 150 EXCHANGE ST | 052 277 703 | MCMOD MC | multifamily dwelling (210 units/6 stories), restaurant | CB/RIO-B |
| 10 FLORENCE ST | 051 253 327 | MCMOD MC | multifamily dwelling (82 units/6 stories), conv. store | CB |
| 39 FLORENCE ST | 051 252 211 | MCMOD MC | multifamily dwelling (84 units/5 stories) | CB |
| 99 FLORENCE ST | 050 280 001 | MCMOD MC | multifamily dwelling (208 units/10 stories) | CB |
| 7 JACKSON ST | 051 278 802W | MCMOD MC | municipal parking garage | CB |
| MAIN ST | 050 259 905 | MCMOD MC | pkg. garage for multifamily dwelling (504-514 Main) | CB |
| 32 PEARL ST | 031 133 302 | MCMOD MC | City park (Macdonald Stadium) | ResA |
| 89 PEARL ST | 030 136 615 | MCMOD MC | multifamily dwelling (110 units/5 stories) (MHA) | ResA |
| 100 PEARL ST | 031 133 301 | MCMOD MC | City park (Callahan Park) | ResA |
| 83 PLEASANT ST | 050 257 701 | MCMOD MC | offsite parking facility (City parking lot) | CB |
| 95-105 PLEASANT ST | 050 256 604 | MCMOD MC | retail sales, retail services | CB |
| 110-112 PLEASANT ST | 052 274 401 | MCMOD MC | general offices (City school department) | CB |
| RAMSDELL RD | 049 279 931 | MCMOD MC | municipal parking lot | ResB |
| 10-20 SUMMER ST | 022 132 201 | MCMOD MC | multifamily dwelling (203 units/12 stories), offices | CB |
| 7 WASHINGTON ST | 050 256 601 | MCMOD MC | City senior center | CB |
| 17-19 WASHINGTON ST | 050 256 602 | MCMOD MC | multifamily dwelling (77 units/5 stories) | CB |

27

| | | | | |
|------------------|-------------|-------------|---|----------|
| 36 DARTMOUTH ST | 050 257 703 | MCMOD MC HR | multifamily dwelling (126 units/12 stories) | CB |
| 504- 514 MAIN ST | 050 259 906 | MCMOD MC HR | multifamily dwelling (140 units/18 stories) | CB |
| 160 PLEASANT ST | 051 275 503 | MCMOD MC HR | multifamily dwelling (206 units/12 stories) | CB-RIO B |
| 195 PLEASANT ST | 051 252 217 | MCMOD MC HR | multifamily dwelling (178 units/9 stories) | CB |

4

| | | | | |
|------------------|--------------|----------|--|----|
| 5 ISLAND HILL AV | 044 855 505A | MCMOD OG | multifamily dwelling (150 units/3 stories) | HB |
| MAIN ST | 062 308 810 | MCMOD OG | public service corp. | CB |

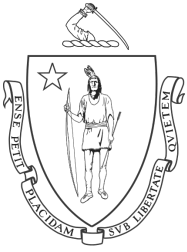
| | | | | |
|-------------------|-------------|----------|---|------|
| MAIN ST | 062 308 811 | MCMOD OG | vacant land (City) | CB |
| 244-248 MAIN ST | 062 308 815 | MCMOD OG | multifamily dwelling (5 units/2 stories) | HB |
| 260 MAIN ST | 062 308 813 | MCMOD OG | multifamily dwelling (20 units/4 stories) | HB |
| 550 MAIN ST | 049 279 929 | MCMOD OG | multifamily dwelling (13 units/3 stories) | ResB |
| 556 MAIN ST | 049 279 928 | MCMOD OG | multifamily dwelling (12 units/3 stories) | ResB |
| 1038 MAIN ST | 044 855 510 | MCMOD OG | multifamily dwelling (118 units/2 stories) | HB |
| 1100 MAIN ST | 044 855 507 | MCMOD OG | motor vehicle repair shop | HB |
| 1128 MAIN ST | 044 855 506 | MCMOD OG | animal hospital & kennel | HB |
| 30-32 MAPLE ST | 022 130 018 | MCMOD OG | four-family dwelling | ResA |
| 33 MAPLE ST | 020 120 015 | MCMOD OG | multifamily dwelling (44 units/3 stories) | NB |
| 36 MAPLE ST | 022 130 015 | MCMOD OG | multifamily dwelling (24 units/3 stories) | ResA |
| RAMSDELL RD | 049 279 932 | MCMOD OG | vacant land (City) | ResB |
| SUMMER ST | 020 120 012 | MCMOD OG | offsite parking facility (City parking lot) | NB |
| 74-80B SUMMER ST | 020 120 014 | MCMOD OG | multifamily dwelling (20 units/3 stories) | NB |
| 82 SUMMER ST | 020 120 013 | MCMOD OG | multifamily dwelling (12 units/3 stories) | NB |
| 89 SUMMER ST | 021 118 801 | MCMOD OG | courthouse (City) | NB |
| 101-109 SUMMER ST | 021 117 701 | MCMOD OG | multifamily dwelling (70 units/4 stories) | ResA |
| 117 SUMMER ST | 021 117 702 | MCMOD OG | multifamily dwelling (33 units/4 stories) | ResA |
| 120 SUMMER ST | 020 119 907 | MCMOD OG | multifamily dwelling (13 units/3 stories) | ResA |
| 134 SUMMER ST | 020 116 612 | MCMOD OG | multifamily dwelling (48 units/4 stories) | ResA |

22

| | | | | |
|----------------------|---------------|----------|--|-----------|
| 474-488 BROADWAY | 151 627 770 | MCMOD MD | multifamily dwelling (295 units/5 stories) | HB |
| 10 OVERLOOK RIDGE DR | 181 575 502 | MCMOD MD | multifamily dwelling (249 units/4 stories) | ResC |
| 51 OVERLOOK RIDGE DR | 185 575 580 | MCMOD MD | multifamily dwelling (326 units/5 stories) | RQRRD-RQ2 |
| 181 KENNEDY DRIVE | 162 571 189X | MCMOD MD | multifamily dwelling (241 units/3-8 stories) | ResC |
| 244 KENNEDY DRIVE | 162 571 1892Z | MCMOD MD | multifamily dwelling (307 units/8 stories) | ResC |
| 8 QUARRY LANE | 185 575 570 | MCMOD MD | multifamily dwelling (187 units/4 stories) | RQRRD-RQ2 |
| 12 QUARRY LANE | 186 575 507 | MCMOD MD | multifamily dwelling (185 units/4 stories) | RQRRD-RQ1 |
| 15 QUARRY LANE | 186 575 510 | MCMOD MD | multifamily dwelling (119 units/4 stories) | RQRRD-RQ2 |
| 4 STONE LANE | 186 575 505 | MCMOD MD | multifamily dwelling (173 units/4 stories) | ResC |

9

| Property Address | City Assessor's Parcel ID | Existing Use | Current Zoning District |
|---------------------------|----------------------------------|---|--------------------------------|
| 12 BICKFORD RD | 074 260 012 | multifamily (12 units), rest., retail | ResA |
| 167-169 CENTRE ST | 054 237 703 | resturant | CB |
| 185 CENTRE ST | 054 237 711 | retail sales w/drive-thru | CB |
| 0 CHARLES ST | 062 239 913 | offsite parking facility (parking lot) | CB |
| 22 CHARLES ST | 062 239 912 | group dwelling | CB |
| 28-30 CHARLES ST | 062 239 911 | motor vehicle repair shop | I2 |
| 36 CHARLES ST | 062 239 910 | motor vehicle repair shop (permitted MJ Estab/retail sales) | I2 |
| 31 COMMERCIAL ST | 031 250 003 | MBTA Malden Center Station | CB |
| 51 COMMERCIAL ST | 031 234 402 | general offices (bank) w/drive-thru | I2 |
| 65 COMMERCIAL ST | 031 234 405 | motor vehicle repair shop | I2 |
| 77 COMMERCIAL ST | 031 234 404 | retail sales | I2 |
| 89 COMMERCIAL ST | 031 234 403 | light manufacturing (brewery) | I2 |
| 99-109 COMMERCIAL ST | 031 234 401 | medical offices, retail sales & services | I2 |
| 43 DARTMOUTH ST | 050 259 904 | offices | CB |
| 4- 6 EVELYN Place | 022 130 030 | retail sales & services | NB |
| 2 FLORENCE ST | 051 253 326 | restaurant, offices | CB |
| 0 MAIN ST | 062 239 914 | offsite parking facility (City parking lot) | CB |
| 290- 312 MAIN ST | 054 237 706 | restaurants, retail sales & services | CB |
| 480 MAIN ST | 050 259 908 | multifamily (195 units/7 stories), rest., retail | CB-RIO |
| 492- 500 MAIN ST | 050 259 907 | restaurants, retail sales & services | CB |
| 521- 539 MAIN ST | 074 260 013 | multifamily (6 units), rest., retail | ResA |
| 69 MIDDLESEX ST | 054 236 604 | offices, retail sales & services | I2 |
| PLEASANT ST | 031 133 309 | offsite parking facility (MBTA parking lot) | ResO |
| 41- 49 PLEASANT ST | 050 257 710 | restaurant, retail sales & services | CB |
| 51- 61 PLEASANT ST | 050 257 709 | restaurant, retail sales & services | CB |
| 126-150 PLEASANT ST | 051 275 504 | multifamily (71 units/5 stories), offices, retail | CB |
| 137-147 PLEASANT ST | 051 252 215 | restaurants, offices, rec. for gainful business | CB |
| 157 PLEASANT ST | 051 252 214 | multifamily (47 units/6 stories), restaurant, offices | CB |
| 169-185 PLEASANT ST | 051 252 216 | multifamily (36 units/3 stories), rest., retail, offices | CB |
| 190, 205, 215 PLEASANT ST | 051 275 510 | multifamily (320 units/6 stories), rest., retail, City hall | CB/RIO |
| 321 PLEASANT ST | 022 130 001 | motor vehicle repair shop | NB |
| 332 PLEASANT ST | 031 133 308 | City fire station | ResO |
| 50- 52 SUMMER ST | 022 130 020 | multifamily (12 units/4 stories), retail | NB |
| 54- 72 SUMMER ST | 022 130 019 | multifamily (63 units/4 stories), rest., retail | NB |



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

ANDREA JOY CAMPBELL
ATTORNEY GENERAL

(617) 727-2200
www.mass.gov/ago

Advisory Concerning Enforcement of the MBTA Communities Zoning Law

The Office of the Attorney General is issuing this Advisory to assist cities, towns, and residents in understanding the requirements imposed by the MBTA Communities Zoning Law (G.L. c. 40A, § 3A) (the “Law”). The Law was enacted to address the Commonwealth’s acute need for housing by facilitating the development of transit-oriented, multifamily housing. By any measure, Massachusetts is in a housing crisis that is inflicting unacceptable economic, social, and environmental harms across our state – particularly on working families and people of color. The Law directly responds to this crisis by implementing zoning reforms that require MBTA Communities to permit reasonable levels of multifamily housing development near transit stations.¹

Massachusetts cities and towns have broad authority to enact local zoning ordinances and by-laws to promote the public welfare, so long as they are not inconsistent with constitutional or statutory requirements.² The MBTA Communities Zoning Law provides one such statutory requirement: that MBTA Communities must allow at least one zoning district of reasonable size in which multifamily housing is permitted “as of right.”³ The district must generally be located within half a mile of a transit station and allow for development at a minimum gross density of fifteen units per acre.⁴ MBTA Communities cannot impose age-based occupancy limitations or other restrictions that interfere with the construction of units suitable for families with children within the zoning district.⁵ For example, the zoning district cannot have limits on the size of units or caps on the number of bedrooms or occupants. The required zoning district must also allow for the construction of multifamily units without special permits, variances, waivers or other discretionary approvals.⁶ These measures can prevent, delay, or significantly increase the costs of construction. As directed by the Legislature, the Department of Housing and Community Development has promulgated guidelines regarding compliance.⁷ These guidelines provide

¹ An MBTA Community is a town or city which hosts MBTA service; which abuts a town or city that hosts service; or which has been added to the Transit Authority pursuant to a special law. *See* G.L. c. 40A, § 3A(a)(1); G.L. c. 40A, § 1. Currently, there are 177 MBTA Communities in Massachusetts. A list of these MBTA Communities, and other information related to the Law, can be found [here](#).

² *See generally* Mass. Const. Amend. Art. 89 (amending Mass. Const. Amend. Art. 2); G.L. c. 40A, § 1 et seq. (the “Zoning Act”).

³ G.L. c. 40A, § 3A(a)(1) (requiring that MBTA Communities “shall have” a compliant zoning district).

⁴ *Id.*

⁵ *Id.*

⁶ G.L. c. 40A, § 1A.

⁷ G.L. c. 40A, § 3A(c) (“The [D]epartment . . . shall promulgate guidelines”); Department of Housing and Community Development, *Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act* (revised October 21, 2022).

additional information and benchmarks to be utilized in determining whether MBTA Communities are complying with the Law.

All MBTA Communities must comply with the Law. Communities that do not currently have a compliant multi-family zoning district must take steps outlined in the DHCD guidelines to demonstrate interim compliance. Communities that fail to comply with the Law may be subject to civil enforcement action.⁸ Non-compliant MBTA Communities are also subject to the administrative consequence of being rendered ineligible to receive certain forms of state funding.⁹ Importantly, MBTA Communities cannot avoid their obligations under the Law by foregoing this funding. The Law requires that MBTA Communities “shall have” a compliant zoning district and does not provide any mechanism by which a town or city may opt out of this requirement.¹⁰

MBTA Communities that fail to comply with the Law’s requirements also risk liability under federal and state fair housing laws. The Massachusetts Antidiscrimination Law¹¹ and federal Fair Housing Act¹² prohibit towns and cities from using their zoning power for a discriminatory purpose or with discriminatory effect.¹³ An MBTA Community may violate these laws if, for example, its zoning restrictions have the effect of unfairly limiting housing opportunities for families with children, individuals who receive housing subsidies, people of color, people with disabilities, or other protected groups.

⁸ *See, e.g.*, G.L. c. 12, § 10 (the Attorney General shall take notice of “all violations of law” and bring “such...civil proceedings before the appropriate state and federal courts...as [s]he may deem to be for the public interest”); G.L. c. 231A, § 2 et seq. (authorizing declaratory judgment actions to “secure determinations of right, duty, status, or other legal relations under...statute[s]”).

⁹ G.L. c. 40A, § 3A(b).

¹⁰ G.L. c. 40A, § 3A(a)(1).

¹¹ G.L. c. 151B § 1 et seq.

¹² 42 U.S.C. § 3601 et seq.

¹³ *See, e.g.*, G.L. c. 151B, § 4(4A) (prohibiting activities that interfere with the exercise or enjoyment of fair housing rights); 804 C.M.R. § 2.01(2)(f)-(h) (Antidiscrimination Law applies to “persons who...interfere with another person in the exercise or enjoyment of any right under M.G.L. c. 151, § 4...persons who directly or indirectly prevent or attempt to prevent the construction, purchase, sale or rental of any dwelling or land covered by M.G.L. c. 151B, § 4...[and] persons who aid or abet in doing any illegal acts...”); 804 C.M.R. § 2.01(5)(f) (“Examples of unlawful housing practices include...to pass an ordinance that unlawfully denies a dwelling, commercial space or land to a person or group of persons because of their protected status.”).