




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

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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 2EEEE 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.

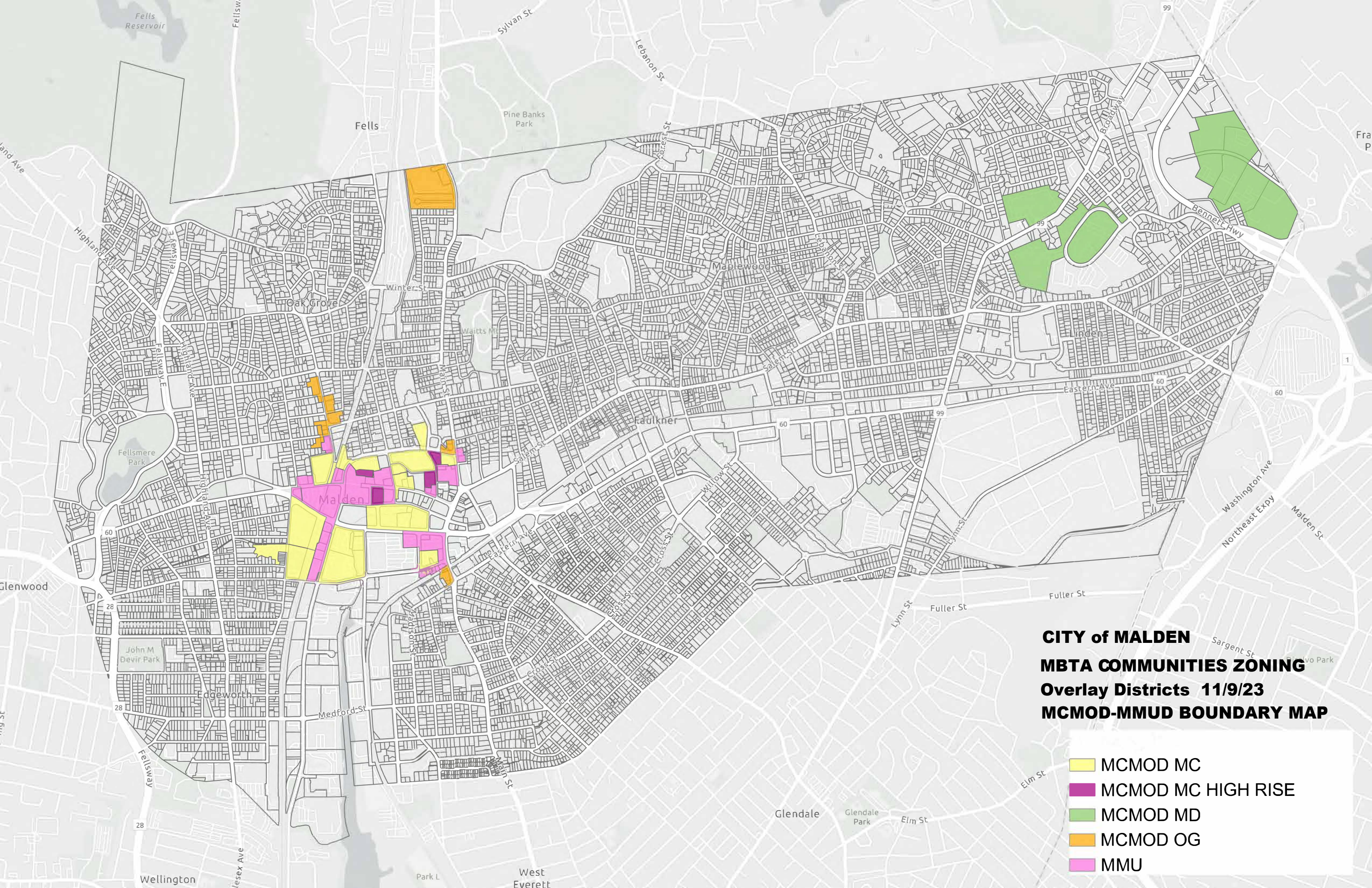
III. **To amend Section 12.32.060.B, MCC (Definitions-Zoning) to add the following:**

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).





**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	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