

Section 5.7 Multi-family Overlay District

5.7.1 Purpose

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

1. Promote public health, safety and welfare by encouraging the production of various housing sizes and types to provide equal access to new housing throughout the community to meet the various needs for people and households of all incomes, ages and sizes.
2. Preserve open space in a community by locating new housing within or adjacent to existing developed areas and infrastructure.
3. Increase the municipal tax base through private investment in new residential developments.

5.7.2 Establishment and Applicability

This MOD is an overlay district superimposed over the underlying zoning district(s) and is shown on the Zoning Map.

1. **Applicability of MOD.** An applicant may develop multi-family housing within an MOD per the provisions of Section 5.7.
2. **Underlying Zoning.** The MOD is an overlay district superimposed on underlying zoning districts. The regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the respective underlying zoning district(s) shall remain in full force, except for uses allowed as of right or by special permit in the MOD. Uses not identified in Section 5.7 are governed by the underlying zoning district(s) requirements.
3. **Sub-districts.** The MOD contains the following sub-districts, all of which are shown on the MOD Boundary Map:
 - a. Town Center
 - b. Kendall Avenue

5.7.3 Definitions.

For Section 5.7, the following definitions shall apply. See Section 1.5 of the Zoning Bylaws for all other definitions.

1. **Affordable unit.** A multi-family housing unit that is subject to a use restriction recorded in its chain of title limiting the sale price or rent or limiting occupancy to an individual or household of a specified income, or both.
2. **Affordable housing.** Housing that contains Affordable Units eligible for listing in the EOHLC's Subsidized Housing Inventory..
3. **Applicant.** A person, business, or organization that applies for a building permit, Site Plan Review, or Special Permit.

4. **Area Median Income (AMI).** The median family income for the Boston-Cambridge-Quincy MA-NH HUD metropolitan statistical region includes the Town of Sherborn as defined by the U.S. Department of Housing and Urban Development (HUD).
5. **As of right.** Development that may proceed under the Zoning in place at the time of application without needing a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval.
6. **Building coverage.** The maximum area of the lot can be attributed to the footprint of the buildings (principal and accessory) on that lot. Building Coverage does not include surface parking.
7. **Compliance Guidelines.** *Compliance Guidelines for Multi-Family Zoning Districts Under Section 3A of the Zoning Act* as further revised or amended from time to time.
8. **EOHLC.** The Executive Office of Housing and Livable Communities (formerly Department of Housing and Community Development, also known as DHCD) or any successor agency.
9. **Development standards.** Provisions of **Section 5.7.7 General Development Standards** made applicable to projects within the MOD.
10. **MBTA.** Massachusetts Bay Transportation Authority.
11. **Mixed-use development.** Development containing a mix of residential uses and non-residential uses, including commercial, institutional, industrial, or other uses.
12. **Multi-family housing.** A building with three or more residential dwelling units or two or more buildings on the same lot with more than one residential dwelling unit in each building.
13. **Multi-family zoning district.** A zoning district, either a base district or an overlay district, in which multi-family housing is allowed as of right.
14. **Open space.** Contiguous undeveloped land within a parcel boundary.
15. **Parking, surface.** One or more parking spaces without a built structure above the space. A solar panel designed to be installed above a surface parking space does not count as a built structure for this definition.
16. **Residential dwelling unit.** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
17. **Section 3A.** Section 3A of Chapter 40A of the Massachusetts General Laws.
18. **Site plan review authority.** The Planning Board is responsible for Site plan review within the MOD.
19. **Special permit granting authority.** The Special Permit Granting Authority shall be the Planning Board for the issuance of special permits in the MOD.
20. **Sub-district.** An area within the MOD that is geographically smaller than the MOD district and differentiated from the rest by location, use, dimensional standards, or development standards.
21. **Subsidized Housing Inventory (SHI).** A list of qualified Affordable Housing Units maintained by the Executive Office of Housing and Livable Communities (EOHLC) used to measure a community's stock of low-or moderate-income housing for M.G.L. Chapter 40B, the Comprehensive Permit Law.

5.7.4 Permitted Uses

1. **Uses Permitted As of Right.** The following uses are permitted as of right within the MOD. See Section 3 of the Zoning Bylaws for all other uses allowed as of right in the underlying zones.

- a. Multi-family housing, up to 15 units an acre.
- b. Mixed-use development in Town Center subdistrict only. As of right uses in a mixed-use development are as follows:

Ground Floor
Community space.
Educational uses.
Personal services.
Retail.
Retail associated with dance or exercise studios, music studios, photography studios, or other combinations of education, services, and retail.
Restaurants, café, and other eating establishments without a drive-through.
Office, professional office, medical and dental offices, and co-working space
Artists’ studios, maker space, small-scale food production [no more than 5,000 SF], and retail associated with each use.
Any Floor
Residential (required component).

- c. For new or expanded buildings in the B-G and B-P districts, residential uses are prohibited on the ground floor, except by special permit.
- d. In the Kendall Avenue subdistrict, nonresidential uses from the above list are allowed on the ground floor by special permit.

2. **Uses Permitted by Special Permit.** Multi-family housing greater than 15? units an acre, up to no more than 20 units an acre. See Section 3 of the Zoning Bylaws for uses allowed by special permit in the underlying zones.

3. **Accessory Uses.** The following uses are considered accessory as of right to any of the permitted uses in Section 5.7.4.

- a. Parking, including surface parking on the same lot as the principal use.
- b. As of right accessory uses appropriate to the above permitted uses, per Section 3 of the Zoning Bylaws for uses allowed as a right or special permit in the underlying zones.

5.7.5 Dimensional Standards

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

Standard	
Lot Size	
Minimum (SF)	10,000
Additional Lot Square Footage by Dwelling Unit (SF)	1,000
Height ⁽²⁾	
Stories (Maximum)	2.5
Feet (Maximum)	35
Minimum Open Space	25% (Kendall sub-district only)
Maximum Building Coverage	50%
Setbacks	
Minimum Frontage (ft)	50
Front Setback (ft)	20
Side Setback (ft)	10 feet if abutting business use only; 30 feet if abutting residential
Rear Setback (ft)	10 feet if abutting business use only; 30 feet if abutting residential

2. **Multi-Building Lots.** In the MOD, lots may have more than one principal building.
3. **Exceptions.** The limitation on height of buildings shall not apply to chimneys, ventilators, towers, silos, spires, or other ornamental features of buildings, which features are in no way used for living purposes and do not constitute more than 25% of the ground floor area of the building.

5.7.6 Off-Street Parking

These parking requirements apply to development in the MOD. **Number of parking spaces.** The following **minimum** numbers of off-street parking spaces shall be permitted by use:

Use	Minimum Spaces
Multi-family	1.5 parking spaces per Dwelling Unit
Mixed-Use	Sum of uses computed separately. See Section 5.1 of the Zoning Bylaws Off-Street Parking requirements.

5.7.7 General Development Standards

1. Development standards in the MOD are applicable to all multi-family and mixed-use development. These standards are components of the Site Plan Review process in **Section 5.7.9 Site Plan Review**.
2. **Site Design.**
 - a. **Connections.** Sidewalks shall provide direct connections among building entrances, the public sidewalk (if applicable), bicycle storage, and parking.
 - b. **Vehicular access.** Where feasible, curb cuts shall be minimized, and shared driveways encouraged.
 - c. **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.
 - d. **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. Pervious materials are encouraged.
 - e. **Open Space and 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.
 - f. **Lighting.** Light levels shall meet or exceed the minimum design guidelines defined by the Illuminating Engineering Society of North America (IESNA) using LED lamps, and shall provide the illumination necessary for safety and convenience while preventing glare and overspill onto adjoining properties and reducing skyglow.
 - g. **Mechanicals.** Mechanical equipment at ground level shall be screened by a combination of fencing and plantings. Rooftop mechanical equipment shall be screened if visible from a public right-of-way.
 - h. **Dumpsters.** Outdoor dumpsters shall be screened by a combination of fencing and plantings.
 - i. **Stormwater management.** Strategies that demonstrate compliance of the construction activities and the proposed project with the most current versions of the Massachusetts Department of Environmental Protection Stormwater Management Standards, the Massachusetts Stormwater Handbook, Massachusetts Erosion Sediment and Control Guidelines, and, if applicable, additional requirements under the Town of Sherborn MS4 permit.
3. **Buildings: General.**
 - a. **Position relative to the principal street.** The primary building shall have its principal façade and entrance facing the principal street.
 - b. **Entries.** Where feasible, entries shall be clearly defined and linked to a paved pedestrian network that includes the public sidewalk.

4. Buildings: Multiple buildings on a lot.

- a. For a mixed-use development, uses may be mixed within the buildings or in separate buildings.
- b. Parking and circulation on the site shall be organized to reduce the amount of impervious surface. Where possible, parking and loading areas shall be connected to minimize curb cuts onto public rights-of-way.
- c. A paved pedestrian network shall connect parking to the entries to all buildings and the buildings to each other.
- d. The orientation of multiple buildings on a lot should reinforce the relationships among the buildings. All building façade(s) shall be treated with the same care and attention in terms of entries, fenestration, and materials.
- e. The building(s) adjacent to the public street shall have a pedestrian entry facing the public street.

5. Buildings: Mixed-use development.

- a. In a mixed-use building, access to and egress from the residential component shall be clearly differentiated from access to other uses. Such differentiation may occur by using separate entrances or egresses from the building or within a lobby space shared among different uses.
- b. Paved pedestrian access from the residential component shall be provided to residential parking and amenities and to the public sidewalk, as applicable.
- c. Materials for non-residential uses shall be stored inside or under cover and shall not be accessible to residents of the development.
- d. Parking and circulation on the site shall be organized to reduce the amount of impervious surface. Where possible, parking and loading areas shall be connected to minimize curb cuts onto public rights-of-way.

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

- 7. Buildings: Corner Lots.** A building on a corner lot shall indicate a primary entrance either along one of the street-facing façades or on the primary corner as an entrance serving both streets.
- a. Such entries shall be connected by a paved surface to the public sidewalk, if applicable.
 - b. All façades visible from a public right-of-way shall be treated with similar care and attention in terms of entries, fenestration, and materials.
 - c. Fire exits serving more than one story shall not be located on either of the street-facing façades.

8. Buildings: Infill Lots. If adjacent buildings comply with the minimum front setback requirements of 5.7.5 Dimensional Standards, infill buildings shall meet those

requirements as well. Otherwise, infill buildings may match the setback line of either adjacent building or an average of the setback of the two buildings to provide consistency along the street.

9. **Buildings: Principal Façade and Parking.** Parking shall be subordinate in design and location to the principal building façade while minimizing the extent of impervious surface.
 - a. **Surface parking.** Surface parking shall be located at the rear or side of the principal building. Parking shall not be in the setback between the building and any lot line adjacent to the public right-of-way.
 - b. **Integrated garages.** The principal pedestrian entry into the building shall be more prominent in design and placement than the vehicular entry into the garage.
 - c. **Parking structures.** Building(s) dedicated to structured parking on the same lot as one or more multi-family buildings or mixed-use development shall be subordinate in design and placement to the multi-family or mixed-use building(s) on the lot.
10. **Waivers.** Upon the request of the Applicant and subject to compliance with the Compliance Guidelines, the Site Plan Review Authority may waive the requirements of this **Section 5.7.7 General Development Standards**, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the MOD.

5.7.8 Affordability Requirements.

1. **Applicability.** This requirement applies to all residential and mixed-use developments with ten (10) or more dwelling units, whether new construction, substantial rehabilitation, expansion, reconstruction, or residential conversion (Applicable Projects). No project may be divided or phased to avoid the requirements of this section.
2. **Affordability requirements.** All affordable units created in the MOD under this section must be eligible for listing on Executive Office of Housing and Livable Communities' Subsidized Housing Inventory.
3. **Provision of Affordable Housing.** In Applicable Projects, not fewer than ten percent (10%) of housing units constructed shall be Affordable Housing Units. To calculate the number of Affordable Housing units required within a development project, a fractional unit of .5 or above shall be rounded ~~down~~ up to the next whole number. Fractional units ~~of .4 or~~ below .5 shall be rounded down to the next whole number.
4. **Development Standards.** Affordable Units shall be:
 - a. Integrated with the rest of the development and shall be compatible in design, appearance, construction, and quality of exterior and interior materials with the other units and/or lots.
 - b. Dispersed throughout the development.
 - c. Located such that the units have equal access to shared amenities, including light and air, and utilities) within the development.

- d. Located such that the units have equal avoidance of any potential nuisances as market-rate units within the development.
 - e. Distributed proportionately among unit sizes; and
 - f. Distributed proportionately across each phase of a phased development.
 - g. Occupancy permits may be issued for market-rate units before the end of construction of the entire development, if occupancy permits for Affordable Units are issued simultaneously on a pro-rata basis.
5. **Administration.** The Zoning Enforcement Officer shall administer and enforce the requirements in this section.

5.7.9 Site Plan Review

1. **Applicability.** Site Plan Review is required for any multifamily or mixed use projects in the MOD. An application for Site Plan Review shall be reviewed by the Planning Board for consistency with the purpose and intent of Sections 5.7.4-5.7.8.
2. **Submission Requirements.** As part of any application for Site Plan Review for a project within the MOD submitted under Sections 5.7.7-5.7.8, the Applicant must submit the following documents to the Municipality:
 - a. Application and fee for Site Plan Review.
 - b. Site plans that show the position of the building on the site, points of vehicular access to and from the site and vehicular circulation on the site, stormwater management, utilities, and landscape treatments, including any screening of adjacent properties, and other information commonly required by Municipality for Site Plan Review.
 - c. Elevations of the building(s) showing the architectural design of the building.
 - d. All site plans shall be prepared by a certified architect, landscape architect, and/ or a civil engineer registered in the Commonwealth of Massachusetts. A certified landscape architect registered in the Commonwealth of Massachusetts shall prepare all landscape plans. A certified architect registered in the Commonwealth of Massachusetts shall prepare all building elevations. All plans shall be signed and stamped, and drawings prepared at a scale of [one-inch equals forty feet (1"=40') or larger], or at a scale as approved in advance by the Permitting Authority.
3. **Timeline.** Site Plan Review should be commenced no later than 45 days after the submission of a complete application and should be completed expeditiously. The site plan review authority may, when appropriate, seek the input of other municipal boards or officials. In general, site plan review should be completed no more than six months after the application submission.
4. **Site Plan Approval.** Site Plan approval for uses listed in Section 5.7.4 Permitted Uses shall be granted upon the determination by the Planning Board that the following conditions have been satisfied. The Site Plan Review Authority may impose reasonable conditions, at the applicant's expense, to ensure that these conditions have been satisfied.

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- a. The Applicant has submitted the required fees and information as outlined in Municipality’s requirements for a Building Permit and Site Plan Review
 - b. The project described in the application meets the development standards outlined in Section 5.7.7 General Development Standards.
5. **Project Phasing.** An Applicant may propose, in a Site Plan Review submission, that a project be developed in phases subject to the approval of the Site Plan Review Authority, provided that the submission shows the full buildout of the project and all associated impacts as of the completion of the final phase. However, no project may be phased solely to avoid the provisions of Section 5.7.8 Affordability Requirements.

5.1.10 Severability.

If any provision of this Section 5.7 is found to be invalid by a court of competent jurisdiction, the remainder of Section 5.7 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 5.7 shall not affect the validity of the remainder of Sherborn’s Zoning.

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