

Article XX *AMEND ZONING BY-LAW: MBTA COMMUNITIES MULTI-FAMILY ZONING*

To see if the Town will vote to amend the Swampscott Zoning By-law and Zoning Map to add and establish a new Overlay Zone, being the MBTA Communities Multi-family Overlay District and make related amendments, to allow for as-of-right multifamily and mixed-use development in transit-oriented specific locations as set forth in Appendices X and Y and to re-number the Table of Contents, Article VI Definitions, and Zoning By-law accordingly, or take any action relative thereto.

Comment: This bylaw is in relation to Section 3A of the Zoning Act of Mass General Law which requires MBTA communities to adopt zoning that will enable as-of-right multifamily development. Section 3A was enacted in order to help deal with the housing crisis in the Commonwealth by encouraging residential development near transit infrastructure. Swampscott, having an MBTA commuter rail stop as well as MBTA bus lines, is required to adopt this zoning. If the community does not comply with Section 3A, the Town will become ineligible for numerous state funding sources.

APPENDIX X – MBTA COMMUNITIES ZONING BYLAW AMENDMENT

All proposed language changes outlined below with new language in red and text to be removed in ~~red text strikethrough~~.

1. Amend the Table of Contents of the Zoning By-law to add after Section 4.12.0.0.0. the following, and to renumber the Table of Contents accordingly:

4.13.0.0. Regulations Pertaining to the MBTA Communities Multi-family Overlay District

2. Amend the Zoning By-law Section 2.1.2.0. “Establishment of Overlay Districts” to add the following:

2.1.2.9. MBTA Communities Multi-family Overlay District

3. Amend the Zoning By-law and Zoning Map of the Town of Swampscott as referenced in Section 2.1.3.0. to add the new “MBTA Communities Multi-family Overlay District,” by designating the boundaries of the Essex Street Overlay sub-district and the Vinnin Square Overlay sub-district and by applying it to the following parcels (per the Assessor Map) and as shown in the plan included in Appendix Y.

Essex Street Overlay sub-district

Map 6, Parcel 118

Map 6, Parcel 243

Map 12, Parcel 95

Map 12, Parcel 97

Map 12, Parcel 102

Map 12, Parcel 102A

Map 12, Parcel 103

Map 12, Parcel 104

Map 12, Parcel 105

Vinnin Square Overlay sub-district

Map 13, Parcel 7

Map 17, Parcel 8

Map 17, Parcel 10

Map 17, Parcel 10C

Map 17, Parcel 11

Map 34, Parcel 111

4. Amend the Zoning By-law to add after Section 4.12.0.0.0. a new section 4.13.0.0. as follows:

4.13.0.0. Regulations Pertaining to the MBTA Communities Multi-family Overlay District

4.13.1.0. Purpose

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

1. Encourage the production of a variety of housing sizes and typologies to provide equal access to new housing throughout the community for people with a variety of needs and income levels;

2. Support vibrant neighborhoods by encouraging an appropriate mix and intensity of uses to support an active public space that provides equal access to housing, jobs, gathering spaces, recreation opportunities, goods, and services within a half-mile of a transit station;
3. Locate housing within walking distance of public transit to promote general public health, reduce the number of vehicular miles travelled, support economic development, and meet community-based environmental goals, including reducing greenhouse gases and improving air quality;
4. Preserve open space in the community by locating new housing within or adjacent to existing developed areas and infrastructure;
5. To meet the goals and objectives of the Master Plan and Housing Production Plan; and
6. Support public investment in public transit and pedestrian- and bicycle-friendly infrastructure.

4.13.2.0. *Establishment and Applicability*

4.13.2.1. Underlying Zoning. The MCMOD is an area of land of approximately 44.6 acres in size that is superimposed on underlying zoning districts. The regulations for use, dimension, and all other provisions of the Zoning By-law 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 MCMOD. Where the MCMOD authorizes uses, dimensional controls, or other provisions not otherwise allowed in the underlying district, the provisions of the MCMOD shall control. Uses and dimensional controls of the MCMOD are not subject to any special permit requirements of the underlying district and/or applicable overlay districts. Uses that are not identified in Section 4.13.0.0. are governed by the requirements of the underlying zoning district(s).

4.13.2.2. Sub-districts. The MCMOD contains the following sub-districts, all of which are shown on the MCMOD Boundary Map, which are shown on the Zoning Map:

- a. Essex Street Overlay
- b. Vinnin Square Overlay

4.13.2.3. Exclusions. Development within the MCMOD does not require compliance with Sections 2.3.4.0. and 4.4.5.0. as well as Section 4.12.0.0., except for the application of Design Guidelines established in 4.12.3.0.

4.13.3.0. *Definitions*

For purposes of this Section 4.13.0.0., the following definitions shall apply.

Affordable unit: A multi-family housing unit that is subject to a use restriction recorded in its chain of title limiting the sale price or rent or limiting occupancy to an individual or household of a specified income, or both such that the unit qualifies for inclusion on the Town's SHI.

Affordable housing: Housing that contains Affordable Units as defined by this Section 4.13.3.0.

Applicant: A person, business, or organization that applies for a building permit, variance, Site Plan Review, or Special Permit or who files an administrative appeal.

Area Median Income (AMI): The median family income for the metropolitan statistical region that includes the Town of Swampscott, as defined by the U.S. Department of Housing and Urban Development (HUD).

As of right: Development that may proceed under the Zoning Bylaw without the need for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval.

Compliance Guidelines: As defined and set out in *Compliance Guidelines for Multi-Family Zoning Districts Under Section 3A of the Zoning Act* as further revised or amended from time to time.

Development guidelines: Provisions of Section 4.13.7.0. Development Guidelines made applicable to projects within the MCMOD.

EOHLC: The Massachusetts Executive Office of Housing and Livable Communities, or any successor department.

MBTA: Massachusetts Bay Transportation Authority, or any successor agency.

Mixed-use development: Development containing a mix of residential uses and non-residential uses, including commercial, institutional, industrial, or other uses.

Multi-family housing: A building with three or more residential dwelling units or two or more buildings on the same lot with more than one residential dwelling unit in each building.

Multi-family zoning district: A zoning district, either a base district or an overlay district, in which multi-family housing is allowed as of right.

Parking, structured: A structure in which vehicle parking is accommodated on multiple stories; a vehicle parking area that is underneath all or part of any story of a structure; or a vehicle parking area that is not underneath a structure, but is entirely covered, and has a parking surface at least eight feet below grade. Structured Parking does not include surface parking or carports, including solar carports.

Parking, surface: One or more parking spaces without a built structure above the space. A solar panel designed to be installed above a surface parking space does not count as a built structure for the purposes of this definition.

Section 3A: Section 3A of the Zoning Act of Massachusetts.

Site plan review authority: The Planning Board of the Town of Swampscott.

Special permit granting authority: As defined and designated in Subsection 5.3.1.0. of the Zoning By-laws.

Sub-district: An area within the MCMOD that is geographically smaller than the MCMOD district and differentiated from the rest of the district by use, dimensional standards, or development standards.

Subsidized Housing Inventory (SHI): A list of qualified Affordable Housing Units maintained by DHCD used to measure a community’s stock of low- or moderate-income housing for the purposes of M.G.L. Chapter 40B, the Comprehensive Permit Law.

Transit station: An MBTA subway station, commuter rail station, or ferry terminal.

- a. **Commuter rail station:** Any MBTA commuter rail station with year-round, rather than intermittent, seasonal or event-based, service.
- b. **Ferry terminal:** The location where passengers embark and disembark from regular, year-round MBTA ferry service.
- c. **Subway station:** Any of the stops along the MBTA Blue Line, Green Line, Orange Line, or Red Line.

4.13.4.0. *Permitted Uses*

The following uses are permitted in the MCMOD in accordance with the “Table of Uses within the MCMOD” below (4.13.4.1). Uses not expressly provided for in the MCMOD are prohibited under this section.

Symbols employed shall mean the following:

- Y = A use permitted as of right.
- SP = A use permitted by special permit.
- N = An excluded or prohibited use.

4.13.4.1. Table of Uses within the MCMOD

PRINCIPAL USE	ALLOWANCE
Residential	
Multi-family housing	Y
Mixed-Use Development – Ground Floor	
Club, lodge, or fraternal organization (profit or not-for-profit)	N
Educational uses (non-exempt)	Y
Motor vehicle sales and rental	N
Motor vehicle general or body repair, or automatic automobile / vehicle washing facility	N

Motor vehicle filling / fueling station	N
Motor vehicle light service	N
Restaurant or coffee shop containing up to 7,500 s.f. of gross floor area (including storage, sales, and accessory space)	Y
Retail containing up to 10,000 s.f. of gross floor area (including storage, sales, and accessory space)	Y
Retail containing more than 10,000 s.f. of gross floor area (including storage, sales, and accessory space)	SP
Theatre; museum; performing, cultural, or arts facility; or hall for public gathering	Y
Drive-Through in connection with any lawfully existing use (See §5.12.0.0.)	N
Funeral home / mortuary	N
Light manufacturing under 10,000 s.f. of gross floor area	N
Warehouse, Distribution Facility, Self-Storage Mini-Warehouse	N
Contractor's Yard	N
Mixed-Use Development – Any Floor	
Residential (required component)	Y
Business, medical, or professional office of any size on any floor other than ground floor	N
Personal service establishment of any size on any floor other than ground floor	N
Bank or financial institution of any size on any floor other than ground floor	N

4.13.4.2. Accessory Uses. The following uses are permitted as of right within the MCMOD.

- a. Parking, including surface parking and parking within a structure such as an above ground or underground parking garage or other building on the same lot as the principal use.
- b. Any accessory uses permitted as of right in the underlying zoning district and not explicitly prohibited as a principal use in Section 4.13.4.1.

4.13.5.0. Dimensional Standards

4.13.5.1. Table of Dimensional Standards. Except as expressly provided below, the dimensional requirements of the underlying zoning district as set forth in Appendix A - Table of Dimensional Requirements is applicable in the MCMOD.

Standard	Sub-district Essex Street Overlay	Sub-district Vinnin Square Overlay
Dwelling Units Per Acre (Maximum)	35	25

4.13.5.2. Multi-Building Lots. More than one (1) multi-family or mixed-use building shall be allowed as of right on a lot subject to the requirements of Section 4.13.0.0. provided each building complies with the dimensional requirements applicable within the sub-district.

4.13.5.3. Exceptions.

- a. Height - The limitation on height of buildings shall not apply to chimneys, ventilators, towers, silos, spires, or other ornamental features of buildings, which features are in no way used for living purposes and do not constitute more than 25% of the gross floor area of the ground floor area of the building.
- b. Renewable Energy Installations – The Site Plan Review Authority or Special Permit Granting Authority may waive the height and setbacks in Section 4.13.5.0. to accommodate the installation of solar photovoltaic, solar thermal, living, and other eco-roofs, energy storage, and air-source heat pump equipment. Such installations shall not create a significant detriment to abutters in terms of noise or shadow and must be appropriately integrated into the architecture of the building and layout of the site. The installations shall not provide additional habitable space within the development.

4.13.6.0. Off-Street Parking

These parking requirements are applicable to development in the MCMOD.

4.13.6.1. Number of Parking Spaces. The following number of off-street parking spaces shall be permitted by use, either in surface parking or within garages or other structures:

USE	MINIMUM SPACES	MAXIMUM SPACES
Multi-family housing	One (1) space per dwelling unit	One and one-half (1.5) spaces per dwelling unit
Mixed-use (Residential portion)	One (1) space per dwelling unit	One and one-half (1.5) spaces per dwelling unit
Mixed-use (Non-residential / commercial portion)	75% of “Maximum Spaces” requirement	Per Section 2.2.3.0. and related Off-Street Parking Use Group (Section 3.1.2.0.)

4.13.6.2. Number of Bicycle Parking Spaces. The following minimum number of covered bicycle storage spaces shall be provided by use:

USE	MINIMUM SPACES
Multi-family housing	One (1) space for every three (3) dwelling units
Mixed-use (Residential portion)	One (1) space for every three (3) dwelling units
Mixed-use (Non-residential / commercial portion)	One (1) space for every ten (10) parking spaces

4.13.6.3. Bicycle Storage. For a multi-family development of twenty-five (25) units or more, or a mixed-use development of twenty-five thousand (25,000) square feet or more, covered bicycle parking spaces shall be integrated into the structure of the building(s).

4.13.6.4. Shared Parking within a Mixed-Use Development. Parking requirements for a mix of uses on a single site may be adjusted through the Site Plan Review process if the applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies such as the Urban Land Institute Shared Parking Report or the ITE Shared Parking Guidelines.

4.13.7.0. Development Guidelines

Development guidelines as defined in Section 4.12.3.0. are applicable to all developments under this bylaw. The Site Plan Review Authority shall encourage adherence to the guidelines as part of Site Plan Review.

4.13.8.0. Affordability Requirements

A maximum of ten (10) percent of the units in any development within the MCMOD shall be affordable housing units available to families or individuals whose income is 80 percent of area median income and all developments within the MCMOD shall otherwise fully comply with the provisions of Section 4.8.0.0. Inclusionary Housing Regulations, except for the requirements of Section 4.8.3.0. Compliance with said Section 4.8.0.0. shall be determined through Site Plan Review and references therein to the SPGA, shall for purposes of the MCMOD, mean Site Plan Review Authority. Developments within the MCMOD are not eligible for the alternative requirements provided in Section 4.8.7.0.

4.13.9.0. Site Plan Review

4.13.9.1. Applicability. Site Plan Review is required for all developments within the MCMOD. Site Plan Review for as of right uses in the MCMOD may not be denied. An application for Site Plan Review shall be reviewed by the Site

Plan Review Authority for consistency with the purpose and intent of Sections 4.13.4.0. to 4.13.8.0.

4.13.9.2. Submission Requirements. As part of any application for Site Plan Review for a project within the MCMOD, the Applicant must submit the following documents:

- a. Application for Site Plan Review.
- b. Summary – Indicate the number of dwelling units, the forms of ownership contemplated for the property and a summary of the provisions of any ownership or maintenance thereof, identification of all land that will become common or public land, demonstrate compliance to the maximum extent possible with the Design Guidelines, and any other evidence necessary to indicate compliance with the MCMOD.
- c. Locus Plan - At a scale of one (1) inch equals one hundred (100) feet, showing the entire project and its relation to existing areas, buildings and roads for a distance of one thousand (1,000) feet from the project boundaries.
- d. Site Plan Layout - Containing the boundaries of the lot(s) in the proposed development, locations and dimensions of existing and proposed structures, driveways, internal roadways and access ways to adjacent public roadways, all parking areas, loading areas, walkways, and areas for snow storage after plowing. Plan shall be dimensional to show distances to all setback lines. Site layouts older than 18 months from the date of application will not be accepted. Include: computations for minimum open area percentage of the lot; street number of subject property and Assessor's map and parcel number(s); location and linear distance from property lines of houses and other structures on abutting parcels; the current zoning district(s) of the property; existing and proposed easements (drain, water and/or sewer pipes and electrical service), private and public rights-of-way and easements; exterior tanks, containers, and mechanical systems.
- e. Topography and Drainage Plan - Showing location of all existing natural features, including ponds, brooks, streams and wetlands, and which shall contain the existing and proposed final topography at two (2) foot intervals, and plans for handling stormwater drainage.
- f. Utility Plan - Include the locations and dimensions of all utilities, gas, telephone, electrical, communications, water, drainage, sewer and other waste disposal facilities, the location of all hydrants, fire alarms and firefighting facilities on and adjacent to the site, the location and type of external lighting, all proposed recreational facilities and open space areas, and all wetlands including floodplain areas.

- g. Architectural Plan - Elevations for all sides of the building(s), existing and proposed. Elevations shall show architectural style intended and shall indicate exterior materials and colors proposed. All architectural plans must be dated, drawn to scale with scale indicated, and showing all areas with new construction. Interior plans should include each area of the building affected by new construction and include the entire floor plan for major additions. The drawings of the exterior must include all sides, or elevations, affected by new construction, and must indicate all dimensions including height. Where there is an existing structure, the affected exterior elevation(s) must show the relationship of proposed changes to the existing structure. This shall be done with separate before and after drawings, which use the same scale. Exposed foundations should also be depicted in the elevations. Particular focus on existing and finished grades will be needed to accurately calculate building height. The elevation drawings should describe the cladding, or finish materials, of both the existing and proposed structures, such as wood clapboard, wood shingles, vinyl siding, etc. Also, the interior and exterior elements of the plan shown should be noted such as bedroom, study, balcony, deck, etc. The drawings must be in sufficient detail so that the Building Commissioner can determine that the finished construction is in accordance with the plan stamped and approved by the Site Plan Review Authority.
- h. Landscaping Plan – Showing the limits of work, existing trees and vegetation, vegetation to be removed, and all proposed landscape features and improvements including screening, planting areas with size and type of stock for each shrub or tree. Include the proposed erosion control measures.
- i. Demolition Description – When applicable, all applications shall include a written description of all proposed demolition that will take place.
- j. Photometric Plan – Must be prepared by a lighting professional that is certified by the National Council on Qualifications for the Lighting Professions (NCQLP) or a Massachusetts-licensed Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect. Plan must include the following:
 - i. Location and limits of the canopy or outdoor display area;
 - ii. Location and height of all canopy lighting for service stations and service station/mini-marts and all pole, building or ground-mounted lighting fixtures for an outdoor display area at a vehicle sale, rental and ancillary service establishment; and
 - iii. A photometric diagram showing predicted maintained lighting levels produced by the proposed lighting fixture facilities.

- k. Time and Cost Statement - Written statement indicating the estimated time/costs required to complete the proposed project and any and all phases thereof.
- l. Drainage Calculations – Calculations provided by a registered professional engineer. Storm drainage design shall conform to the Town’s Subdivision Rules & Regulations.
- m. Traffic Impact Report –Include existing traffic volume, composition, peak hour levels, and existing street capacities, estimated daily traffic generation, composition, peak hour levels, and directional flow resulting from the proposed development, proposed methods to mitigate the estimated traffic impact, and the methodology and sources used to derive existing data and estimations.

4.13.9.3. Public Meeting. A public meeting is required for site plan review to be issued by the Site Plan Review Authority. It is required that complete site plan review applications be submitted a minimum of twenty-one (21) days before a regularly scheduled public meeting. Pursuant to G.L. c. 44, §53G, the Site Plan Review Authority may utilize consultants, at the Applicant’s expense, to assist with review of any application.

4.13.9.4. Review Procedures. The Site Plan Review process is established as follows:

- a. Pre-Application Information Meeting – Although not required, Applicants are recommended to schedule a concept review meeting with the Office of Community and Economic Development. The purpose of this consultation is (a) to review the requirements and criteria for site plan review in the MCMOD and (b) address any questions in order to give the Applicants comments in advance of submitting a formal site plan review application. Comments provided by staff during this process are purely informational and may not be relied upon. It is also advisable that the Applicant obtain advice from a land use lawyer.
- b. The Applicant shall submit the site plan review application and materials to the Town Clerk. The Site Plan Review Authority shall determine whether an application is complete at the public meeting.
- c. The application will be distributed to Town departments and boards for review and comment. Comments from the Town departments and boards shall be transmitted to the Office of Community and Economic Development prior to the scheduled site plan review public meeting.
- d. During the course of the public meeting, the Site Plan Review Authority may determine that it needs to be provided with additional information, in which case the meeting shall be continued to a later date with no prejudice to the Applicant.

4.13.9.5. Site Plan Approval. Site plan approval for as of right uses listed in Section 4.13.4.1. shall be granted upon determination by the Site Plan Review Authority upon simple majority vote that the following conditions have been satisfied. The Site Plan Review Authority may impose reasonable conditions, at the expense of the Applicant, to ensure that these conditions have been satisfied:

- a. The Applicant has submitted the required information as set forth in the Town's requirements for Site Plan Review; and
- b. The project as described in the application meets the requirements of Section 4.13.0.0.

The Site Plan Review Authority shall make and file its final decision within twenty (20) days after the public meeting.

4.13.10.0. Severability

If any provision of this Section 4.13.0.0. is found to be invalid by a court of competent jurisdiction, the remainder of Section 4.13.0.0. shall not be affected but shall remain in full force. The invalidity of any provision of this Section 4.13.0.0. shall not affect the validity of the remainder of the Zoning By-laws.

5. Amend the Zoning By-law Article VI Definitions by doing the following:

Building coverage: That percentage of the lot or plot area covered by the total footprint of a building or buildings (principal and accessory). The total footprint is defined as the total area of ground covered by all structures on a lot, including roofed structures and covered porches.

Building Coverage does not include surface parking.

~~**Lot A:** A continuous parcel of land with legally defined boundaries.~~ An area of land with definite boundaries that is used or available for use as the site of a building or buildings. See Figure 2 in Appendix B.

Dwelling unit: A single unit of residence providing complete, independent living facilities for one or more persons. Each residence shall contain a living area, bathroom and, except in studio units, one (1) or more bedrooms, and may contain a kitchen area or combination kitchen/living area.

APPENDIX Y – ZONING MAP AMENDMENT – MBTA COMMUNITIES MULTI-FAMILY OVERLAY DISTRICT

