

## **ARTICLE 18A: MBTA COMMUNITIES MULTI FAMILY OVERLAY ZONING DISTRICT**

### **18A.1 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:

18A.1.1 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;

18A.1.2 Promote a greater variety of housing choice and create diversity of housing opportunities in the Town;

18A.1.3 Preserve open space in a community by locating new housing within or adjacent to existing developed areas and infrastructure.

18A.1.4 Increase the municipal tax base through private investment in new residential developments.

18A.1.5 To allow housing in locations with adequate public infrastructure including streets, sidewalks, and utilities.

### **18A.2 Establishment and Applicability**

This MCMOD is an overlay district having a land area of approximately sixteen and a half (16.5) acres in size that is superimposed over the underlying zoning district (s) and is shown on the Town of Merrimac Zoning Map. For any land within the MCMOD, a Developer may choose to conform either to the zoning regulations which govern the underlying zoning district or to the MCMOD regulations and procedures set forth by this Section.

#### **18A.2.2 Applicability of MCMOD**

An applicant may develop multi-family housing located within a MCMOD in accordance with the provisions of this Article 18A.

#### **18A.2.3 Underlying Zoning**

The MCMOD 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 shall remain in full force, except for uses allowed as of right in the MCMOD. Uses that are not identified in Section 18A.3 are governed by the requirements of the underlying zoning district.

### **18A.3 Permitted Uses**

18A.3.1 Uses Permitted As of Right

The following uses are permitted as of right within the MCMOD:

Multi-family housing

18A.3.2 Accessory Uses.

The following uses are considered accessory as of right to any of the permitted uses in Section 18A.3.

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.

**18A.4 Table of Dimensional Standards**

Notwithstanding anything to the contrary in this Zoning, the dimensional requirements applicable in the MCMOD are as follows:

Minimum Lot Size	20,000 square feet
Minimum Frontage	100 feet
Maximum Density	15 units per acre
Maximum Height - Stories	3 stories
Maximum Height - Feet	45 feet
Minimum Front Setback	35 feet
Minimum Side Setback	10 feet
Minimum Rear Setback	25 feet
Minimum Open Space	20%

**18A.5 Off Street Parking**

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

- 1 parking space per one bedroom unit
- 2 parking spaces per two or more-bedroom unit

Number of bicycle parking spaces. The following minimum number of bicycle storage spaces shall be provided by use:

- 1 bicycle parking space per unit

Bicycle parking can be provided by covered bicycle storage spaces or bicycle racks throughout the development.

**18A.6 Site Plan Review**

All development projects in the MCMOD require site plan review with the Planning Board and must meet the requirements as set forth in Article 19 of the Town of Merrimac Zoning By-Law.

## **18A.7 General Development Standards**

- 18A.7.1 Connections. Sidewalks shall provide a direct connection among building entrances, the public sidewalk (if applicable), bicycle storage, and parking.
- 18A.7.2 Vehicular access. Where feasible, curb cuts shall be minimized, and shared driveways encouraged.
- 18A.7.3 Utilities. A utility capacity study shall be completed as part of site plan review. The utility capacity study shall show that there is either sufficient public utility capacity to meet the needs of the proposed project and if there is not, how the project's utilities' needs will be met privately.
- 18A.7.4 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 six (6) 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.
- 18A.7.5 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.
- 18A.7.6 Dumpsters. Dumpsters 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. All trash shall be collected privately.
- 18A.7.7 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.
- 18A.7.8 Lighting: Site lighting should be considered an integral element of the landscape design of a property. Lighting should facilitate safe and convenient circulation for pedestrians, bicyclists and motorists.
- 18A.7.9 Buildings: Shared Outdoor Space. Multi-family housing developments shall have common outdoor space that all residents can access. Such space may be located in any combination of ground floor, courtyard, rooftop, or terrace. All outdoor space shall count towards the project's minimum Open Space requirement.
- 18A.7.10 Whenever feasible, all above ground utilities shall be relocated underground.

## **18A.8 Waivers**

Upon the request of the Applicant and subject to compliance with the Compliance Guidelines, the Planning Board may waive the requirements of this Section 18A.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 MCMOD.

## **18A.9 Affordable Housing**

### **18A.9.1 Applicability**

This requirement is applicable to all residential developments with ten (10) or more dwelling units, whether new construction, substantial rehabilitation, expansion, reconstruction, or residential conversion. No project may be divided or phased to avoid the requirements of this section.

### **18A.9.2 Provision of Affordable Housing**

In the MCMOD Overlay District, a minimum of 10% (ten percent) of housing units within the residential development shall be Affordable Housing Units. For purposes of calculating the number of units of Affordable Housing required within a development project, a fractional unit shall be rounded down to the next whole number. The Affordable Units shall be available to households earning income up to 80% (eighty percent) of the AMI.

All affordable housing units shall be subject to an affordable housing restriction and a regulatory agreement in a form acceptable to the Planning Board. The regulatory agreement shall be consistent with any applicable guidelines issued by the Executive Office of Housing and Livable Communities and shall ensure that affordable units can be counted toward the Town's Subsidized Housing Inventory. The affordable housing restriction shall run with the land in perpetuity or for the maximum period of time allowed by law. No occupancy permits shall be issued for any residential units until the restriction and the regulatory agreement are recorded at the Registry of Deed and a copy provided to the Town Planner and the Building Commissioner.

As an alternative to the requirements of this Section, an applicant subject to this By-Law may contribute funds to the Merrimac Affordable Housing Trust to be used for the development of affordable housing in lieu of constructing and offering affordable units on-site.

- a. Eligibility: A fee-in-lieu of affordable housing units shall be approved only if the Planning Board makes specific findings that there will be an unusual net benefit to achieving the Town's housing objectives as a result of allowing a fee rather than affordable housing units. The findings shall include consideration of the appropriateness of the development site location for income-eligible households, including proximity to and quality of public transportation, schools, and other services. The Planning Board is not required to approve an applicant's request for a fee in lieu and may require the construction of affordable units as stated herein.
- b. Fee Amount: For each affordable housing unit provided through a fee in lieu of units, the cash payment shall be equal to 15% of the estimated assessed value of each unit as determined by the Town Assessor. The schedule of payments shall be determined by the Planning Board and specified during the Site Plan review process.

### **18A.9.3 Development Standards**

Affordable Units shall be:

- 18A.9.3.1 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;
- 18A.9.3.2 Dispersed throughout the development;
- 18A.9.3.3 Located such that the units have equal access to shared amenities, including light and air, and utilities (including any bicycle storage and/or Electric Vehicle charging stations) within the development;
- 18A.9.3.4 Located such that the units have equal avoidance of any potential nuisances as the market-rate units within the development;
- 18A.9.3.5 Distributed proportionately among unit sizes;
- 18A.9.3.6 Distributed proportionately across each phase of a phased development.
- 18A.9.3.7 Occupancy permits may be issued for market-rate units prior to the end of construction of the entire development provided that occupancy permits for Affordable Units are issued simultaneously on a pro rata basis.

#### **18A.10 Conflict with Other Bylaws**

The provisions of this bylaw shall be considered supplemental of existing zoning bylaw. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw or provisions therein, shall apply.

#### **18A.11 Severability**

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the Town of Merrimac's Zoning Bylaw.

#### **Rationale:**

The MBTA Communities Act was signed into law in 2021 and is codified as Section 3A of the Massachusetts General Laws, Chapter 40A. The law requires that an MBTA community shall have at least one zoning district of reasonable size in which multi-family housing is permitted as of right, and that meets other criteria set forth in the statute. Failure to comply with the law results in a loss of eligibility for the community, for certain funding programs. The Town's bylaw titled "MBTA Communities Multi-Family Overlay Zoning District" and associated zoning map address the requirements of Section 3A.