

**CITY OF MARLBOROUGH
PLANNING BOARD
MARLBOROUGH, MASSACHUSETTS 01752**

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LEGAL NOTICE

Public Hearing –Proposed Zoning Amendment to Chapter 650, “Zoning” to add a new section to create the Multi-Family MBTA Housing Overlay District (MFMHOD).

Notice is hereby given that the Planning Board of the City of Marlborough will hold a **PUBLIC HEARING** on **Monday, September 9, 2024, at 7:00 PM** in Memorial Hall, 3rd floor, City Hall, 140 Main Street, Marlborough, Massachusetts to amend Chapter 650, “Zoning” to add a new section to create the Multi-Family MBTA Housing Overlay District (MFMHOD).

THAT, PURSUANT TO SECTION 5 OF CHAPTER 40A OF THE GENERAL LAWS, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT CHAPTER 650 OF THE CODE OF THE CITY OF MARLBOROUGH, AS MOST RECENTLY AMENDED, BE FURTHER AMENDED AS FOLLOWS:

A. Chapter 650 is hereby amended by inserting a new Section 650-37A, as follows:

§650-37A MULTI-FAMILY MBTA HOUSING OVERLAY DISTRICT

A. Purpose.

The purpose of the Multi-Family MBTA Housing Overlay District ("MFMHOD") is to provide for multi-family housing by right and to comply with MGL c. 40A, s. 3A relative to MBTA Communities. This section shall be applied to encourage the development of multi-family housing while supporting vibrant neighborhoods and proximity to the downtown and other areas of commercial activity. The goals of the MFMHOD include enhancing land use development and encouraging desired residential growth patterns for the benefit of the public health, safety and welfare and to allow for the development of higher density housing in close proximity to commercial uses consistent with the stated economic development objectives of the City.

B. Establishment and Applicability

(1) The MFMHOD allows the application of supplemental land use controls within the boundaries of a certain overlay district, subject to City Council approval as provided herein, as an alternative to land use controls that exist in the underlying zoning district(s). The MFMHOD shall be superimposed on the other zoning districts existing at the time that any land in any said underlying district is also included in the MFMHOD. The provisions of this section apply only to developments located entirely within the MFMHOD where the property owner has elected to comply with the requirements of the MFMHOD, rather than complying with those of the underlying zoning district.

(2) Boundaries/Sub-Districts. The MFMHOD boundaries are depicted on the Zoning Map and more particularly described in Exhibit A, annexed hereto and incorporated by reference herein. The MFMHOD is further divided into the following three (3) separate subdistricts as depicted on the City Zoning Map and described in Exhibit A hereto:

- (a) MFMHOD – Royal Crest/Briarwood;
- (b) MFMHOD - Lincoln/Mechanic; and
- (c) MFMHOD – Simarano.

- (3) **Exclusivity/Control.** Except as specifically provided herein, uses and provisions of Article V of Chapter 650 (Zoning) relating to the underlying zoning district not otherwise impacted by this section shall continue to remain in full force and effect; provided, however, that the City Council shall be the special permit granting authority and the site plan approval authority, if applicable. This section of the Zoning Ordinance exclusively controls the establishment, development, and design of any development undertaken in the MFMHOD and supersedes any other provision of the Zoning Ordinance (except the provisions of the Water Supply Protection District, if applicable). In the event of any conflict between the provisions of this section and any other provision of the Zoning Ordinance, the provisions of this section shall govern and control.

C. **Definitions.**

The following definitions shall apply solely in the MFMHOD.

- (1) "Multi-family housing": Shall have the meaning set forth in MGL c. 40A, s. 1A, as amended, which currently defines it as follows, a building with 3 or more residential dwelling units or 2 or more buildings on the same lot with more than 1 residential dwelling unit in each building.
- (2) "MFMHOD Affordable Unit": A multi-family housing unit that is subject to a use restriction 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.

D. **Eligible uses.**

- (1) Uses Permitted As of Right. In the MFMHOD, the following uses shall be permitted by right, subject to site plan review in accordance with this section:
 - (a) Multi-Family Housing; and
 - (b) Accessory residential uses are permitted to the same extent they are permitted in the underlying zoning district.
- (2) All developments under this section shall include multi-family housing. All residential uses under this section shall be multi-family housing.
- (3) Developments may also include nonresidential uses permitted in an underlying zoning district either as of right or by special permit in accordance with §650-17 of the Zoning Ordinance. If a nonresidential use requires a special permit under §650-17, Table of Use Regulations, such use shall continue to require a special permit under this section.

E. **Site Plan Authority / Special Permit Granting Authority**

- (1) In all instances, a development which proceeds under the MFMHOD is subject to site plan approval in accordance with §270-2 of the Marlborough City Code, with the exception that the City Council shall be the permit granting authority for site plan approval. The City Council shall also be the special permit granting authority for any special permits (if applicable) under the MFMHOD.
- (2) All site plan review standards applicable to developments under this section shall be consistent with the purposes of this section and the Commonwealth of Massachusetts Department of Housing and Community Development's Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act as amended.
- (3) In performing site plan review, the City Council may employ the services of qualified professional consultants as provided under MGL c. 44, § 53G, as amended, entitled "Employment of outside consultants." These services may include those of an urban designer, architect and/or landscape architect.

F. Dimensional Requirements

Notwithstanding anything to the contrary in this Chapter, the dimensional requirements applicable in the MFMHOD are as follows:

Minimum Lot Area	5,000 square feet
Minimum Lot Frontage	50 feet
Minimum Side Yard	25 feet
Minimum Front Yard	30 feet
Minimum Rear Yard	25 feet
Height	4 Stories; 52 feet maximum
Maximum Lot Coverage (% of Lot)	80%
Minimum Open Space (% of Lot)	20% (including areas within front, side and rear yard setbacks)
Maximum Dwelling Units per Acre By Sub-District	MFMHOD – Royal Crest/Briarwood: 15 units per acre MFMHOD -- Lincoln/Mechanic: 15 units per acre MFMHOD – Simarano: 19 units per acre.

G. Parking requirements.

Except as otherwise provided in this section, parking and circulation requirements shall conform with the provisions of Section §650-48 of the Zoning Ordinance.

- (1) General. In the MFMHOD, adequate off-street parking shall be provided. The City Council and the applicant shall have as a goal for the purposes of defining adequate off-street parking, making the most efficient use of the parking facilities to be provided and minimizing the area of land to be paved for this purpose.
- (2) Parking Locations. Parking may be provided at ground level, underground or in a parking garage. Parking garages can be free standing or as part of buildings dedicated to permitted uses.
- (3) Parking Spaces for Each Dwelling Unit. There shall be a minimum of one (1) parking space for each dwelling unit. Where feasible, sharing of parking shall be encouraged among the various uses in the MFMHOD.
- (4) Granting of Relief from Parking Regulations. The City Council may waive any of the foregoing requirements or the requirements of §650-48 if it makes a finding that to do so will enhance the overall design of the MFMHOD.

H. Open Space.

Acceptable activities within the minimum required Open Space include natural areas (including wetlands and surface waters), wildlife and native plant habitat, landscape plantings, agricultural activities, low-impact design stormwater management, non-motorized trails, and other low-impact activities. Open Space shall not contain habitable structures. Any requirement in Chapter 650 requiring landscaped areas for multi-family uses shall not increase the amount of minimum open space required in the MFMHOD as set forth above.

I. Signage.

- (1) Except as otherwise provided in this section, signage shall conform with the provisions of Chapter 526 of the Marlborough City Code - the Sign Ordinance.
- (2) Granting of relief from signage regulations. The City Council may waive any of the requirements of the Sign Ordinance if it makes a finding that to do so will enhance the overall design of the MFMHOD.

J. Roadways.

Internal MFMHOD roadways shall be private ways and shall be maintained by the owners/developers of the MFMHOD and portions thereof. Private ways within the MFMHOD, to the extent feasible, shall be constructed using the methods and materials prescribed in the Rules and Regulations for the Subdivision of Land in the City, but shall not be required to conform to the dimensional or material requirements thereof, provided that those private roadways shall be adequate for the intended vehicular and pedestrian traffic and shall be maintained by the owner/developer or an association of owners.

K. Storm Water Management System.

The MFMHOD shall have a stormwater management system designed in accordance with the Rules and Regulations for the Subdivision of Land in the City and the Department of Environmental Protection's Storm Water Management Guidelines, as amended. This system shall be privately maintained.

L. MFMHOD Affordability Requirements.

- (1) In the MFMHOD, notwithstanding anything to the contrary in this chapter (including section 650-26), the following requirements shall apply to all multi-family housing with eight (8) or more dwelling units (including, if otherwise allowed by this section, any multi-family housing that is part of a mixed-use development or combined with any other nonresidential use), whether new construction, substantial rehabilitation, expansion, reconstruction, or residential conversion. No development may be divided or phased to avoid the requirements of this section. Compliance with this section shall be made a condition of any special permit or site plan approval that is required for the development.
- (2) Subsidized Housing Inventory. All MFMHOD Affordable Units must be eligible for listing on the DHCD's Subsidized Housing Inventory. The MFMHOD Affordable Units shall be available to households earning income up to 80% of the area median income for the metropolitan statistical region that includes the city of Marlborough, as defined by the U.S. Department of Housing and Urban Development.
- (3) Provision of Affordable Units. For all developments set forth in subsection (L)(1) above, no less than ten percent (10%) of housing units constructed shall be MFMHOD Affordable Units. For purposes of calculating the number of MFMHOD Affordable Units required, if when applying the specified percentage to the total number of units to determine the required number of affordable units, the resulting number of affordable units includes a fraction of a unit, this fraction, if equal to or over one-half, shall be rounded up to the next whole number.
- (4) Local preference. The development plan shall provide that all legally permissible efforts shall be made to provide 70% of the MFMHOD Affordable Units to eligible residents of the city of Marlborough.
- (5) Development Standards. MFMHOD 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 (including any bicycle storage and/or Electric Vehicle charging stations) 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;
 - (f) Distributed proportionately across each phase of a phased development; and

- (g) Occupancy permits may be issued for market-rate units prior to the end of construction of the entire development provided that occupancy permits for MFMHOD Affordable Units are issued simultaneously on a pro rata basis.

M. Application.

- (1) An application for site plan approval shall comply with the requirements of the City Code, Chapter 270, Article II, Permits and Approvals, §270-2 et seq. An application for a special permit for a use in the MFMHOD shall comply with the requirements of §650-59 et. seq. of the Zoning Ordinance.
- (2) The City Council in connection with a special permit and/or site plan application shall review such applications with respect to the following design criteria:
 - a) Compliance of sidewalks with Americans with Disabilities Act (ADA) Design Standards;
 - b) Street facade and exterior walls visible from public ways;
 - c) Public space;
 - d) Scale of buildings; and
 - e) External lighting.

Concurrent with any public hearing/meeting associated with a special permit and/or site plan filing, the applicant shall make a presentation to the City Council to present the proposed architectural design and shall consider the comments and input from the City Council. A building elevation shall be submitted prior to the close of the public hearing/meeting.

N. Amendments.

After approval, the owner/developer may seek amendments to the approved permits. Minor amendments to a special permit/site plan may be made with approval by the Building Commissioner. A major amendment, consisting of any changes not approved as a minor amendment, shall be approved by a majority vote of the City Council. It shall be a finding of the City Council, not subject to dispute by the applicant, whether a requested amendment is deemed to be a minor or major amendment. In general, a minor modification shall not produce more than an immaterial increase in the scale of a project nor produce more than an immaterial increase in impact on City services, the environment, or the neighborhood. If it is determined that revisions to a special permit are not minor, per § 650-59 of the Zoning Ordinance, an application for an amended special permit shall be filed, and a public hearing shall be held in the same manner as required for a new application, subject to the fee schedule under Subsection C(3)(f) of §650-59.

- II. By amending Chapter 650 (Zoning), Section 650-26 (Affordable Housing), by inserting a new subsection (A)(3) to read as follows:

- (3) This section (650-26) shall not apply to the MFMHOD or any sub-district in the MFMHOD.

- III. The City Clerk is authorized to assign other numbering for the new section 650-37A as deemed appropriate for sequential ordering in the Zoning Ordinance.

Exhibit "A"

The MFMHOD shall include all or portions of the properties shown on the Zoning Map existing at the passage of this Ordinance, which properties include the following parcels of land (herein identified by the Assessors' Map and Parcel Number), as designated below for each MFMHOD sub-district:

MFMHOD – Royal Crest/Briarwood:

45-58
45-63A
45-52
45-63

MFMHOD - Lincoln/Mechanic:

69-334
69-336
69-340

MFMHOD – Simarano:

116-12
116-13
116-11
116-5

The accompanying map shows the MFMHOD and each sub-district therein.

Per Order of the City Council
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