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Mayor

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Barney S. Heath  
Director

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**MEMORANDUM**

**DATE:** February 11, 2022

**TO:** Councilor Deborah Crossley, Chair, Zoning & Planning Committee  
Members of the Zoning & Planning Committee

**FROM:** Barney Heath, Director, Department of Planning and Development  
Jennifer Caira, Deputy Director, Department of Planning and Development  
Zachery LeMel, Chief of Long Range Planning  
Cat Kemmett, Planning Associate

**RE:** **#126-22 Requesting an amendment to Chapter 30**  
DIRECTOR OF PLANNING requesting technical amendments to the Newton Zoning Ordinance, Chapter 30 to address missing or incorrectly transcribed ordinance provisions, fix inconsistencies, and clarify ambiguous language.

**MEETING:** February 14, 2022

**CC:** City Council  
Planning Board  
John Lojek, Commissioner of Inspectional Services  
Neil Cronin, Chief of Current Planning  
Alissa O. Giuliani, City Solicitor  
Jonathan Yeo, Chief Operating Officer

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**Overview**

The Planning and Development Department regularly recommends updates Chapter 30, the Zoning Ordinance, in order to correct internal inconsistencies, improve clarity, and fix typos or errors.

This memo provides an overview of the revisions proposed. For each item, staff have provided a brief explanation of the issue followed by the expected impact of proposed changes in an annotated redline, as well as side-by-side comparison of the existing text and suggested revisions. (Attachment A).

**Looking Ahead**

Staff recommends the ZAP Committee set a public hearing for this item for March 28, 2022.

**Attachment A**

Draft ordinance revisions

1. Sustainability- FAR and exterior insulation (Sec. 1.5.5.B.2)

Issue

According to Sec. 1.5.5.B.1.b.iii, when exterior insulation is added to a building within a Residential District, the calculation of gross floor area shall be taken from the exterior face of the structural wall. This allows the thickness of exterior insulation to be excluded from the measurement of FAR in residential districts. This update was made in 2019 as part of a package of sustainable development standards that promote and incentivize energy efficient design and renovations.

However, due to the format of Section 1.5.5, this exemption only applies to Residential Districts. All other districts, even if the building is residential, cannot take advantage of this sustainability incentive. Staff believe this to be an oversight through review of the 2019 proposal and in conversations with the Law Department who assisted with the drafting of the zoning amendments.

Newton has committed to adopting and refining measures to curb greenhouse gas emissions as called for in the Newton Climate Action Plan. Exempting exterior insulation from the gross floor area calculation in all zoning districts, for all buildings, incentivizes higher levels of sustainability in new construction, removes barriers to energy efficient renovations to existing buildings that would otherwise be penalized, and creates a more equitable and consistent policy citywide.

Proposed change

Amend Sec. 1.5.5.B.2 by adding new subsection B, which allows the same deduction for exterior insulation that currently exists in Residential Districts to apply to "All Other Districts" as well.

Existing Language	Proposed Edits
<p>2. <b>All Other Districts.</b> The sum of the floor area of all principal and accessory buildings whether or not habitable shall be taken from the exterior face of the exterior walls of each building without deduction for hallways, stairs, closets, thickness of walls, columns or other features, except as excluded below:</p>	<p>2. <b>All Other Districts.</b> The sum of the floor area of all principal and accessory buildings whether or not habitable shall be taken from the exterior face of the exterior walls of each building without deduction for hallways, stairs, closets, thickness of walls, columns or other features, except as excluded below:</p>
<p>A. Gross floor area shall not include any portion of a basement used for storage, parking, or building mechanicals</p>	<p>A. Gross floor area shall not include any portion of a basement used for storage, parking, or building mechanicals; <u>and</u></p>
	<p>B. <u>Exterior insulation added to a building, in which case gross floor area shall be taken from the exterior face of the structural wall.</u></p>

2. Maximum stories by Special Permit in MU2 and MU4 (Sec. 4.2.2.B.3)

Issue

Due to a scrivener’s error, the listed maximum stories by special permit in MU2 and MU4 is incorrect. The ordinance currently has the maximum allowed stories by special permit as 5 in MU2, when it should be 4.

There is also a long-existing error in this section that lists the maximum allowed stories by special permit in MU4 as 8, when it should say 5.

Proposal

Revise the maximum special permit height for MU2 back to 4 stories. Revise the maximum special permit height for MU4 to back to 5 stories.

Stories	MU1	MU2	MU3/TOD	MU4
Stories (max) - by Right	3	2	3	3
Stories (max) –by Special Permit. See also Sec. 4.2.23	4	<del>5</del> 4	11	<del>8</del> 5

3. Maximum height by-right in MU4 (Sec. 4.2.3)

Issue

The by-right maximum height in MU4 is listed incorrectly in Sec. 4.2.3 due to scrivener's error. The ordinance currently says that the by-right height for MU4 is 24’ and the by right stories is 3, when it should be 36’ and 3 stories.

Proposed change

Revise language so the by-right height is 36’ to align with the 3 stories allowed by-right.

	MU1	MU2	MU3	MU4

Building and structure height				
Height (max)				
Height – by Right	36'	24'	36'	<del>24'</del> <u>36'</u>
Height – by Special Permit	48'	48'	170'	60'

DRAFT

address	zone	new build meet new lot setbacks?	need to build smaller for new lot standards	house now is built to new setbacks, lot cov, open space	bldg type	needed FAR bonus	other
46 Exeter	SR1	Yes	yes	no	demo	yes	doesn't meet new lot open space and lot coverage;
45 Glen	MR1	Yes	no	yes	new	no	2 units; within FAR
100 Langley	MR1	Yes	no	yes	demo	yes	was single family now 2 units; at FAR limit
205 Craft	MR1	Yes	no	yes	addition	no	
269 Jackson	SR3	no	no	no	demo	no	house built doesn't meet new lot setbacks
21 Shumaker Path	SR2	yes	yes	no	demo	no	doesn't meet new lot coverage;
593 Saw Brook	SR3	no	no	no	demo	yes	house built doesn't meet new lot setbacks
45 Fox Hill	SR2	no	yes	no	demo	no	house built doesn't meet new lot setbacks or lot coverage
27 Littlefield	SR2	yes	yes	no	demo	yes	doesn't meet new lot coverage;
659 Chestnut St	SR2	yes	no	yes	addition		
2 A Roadway	SR3	no	yes	no	demo	no	corner/end lot; setbacks wrong – should not have received address change; could not build per old address
819 Dedham	SR1	no	yes	no	demo	no	house built doesn't meet new lot setbacks; open space, lot coverage

	Current												
	SR1		SR2		SR3		MR1		MR2		MR3		MR4
	New Lot	Old Lot*	New Lot	Old Lot	New Lot	Old Lot	New Lot	Old Lot	New Lot	Old Lot	New Lot	Old Lot	New Lot
Lot Area (min)**	25,000 sf	15,000 sf	15,000 sf	10,000 sf	10,000 sf	7,000 sf	10,000 sf	7,000 sf	10,000 sf	7,000 sf	10,000 sf	7,000 sf	10,000 sf
Lot Frontage (min)	140 ft	100 ft	100 ft	80 ft	80 ft	70 ft	80 ft	70 ft	80 ft	70 ft	80 ft	70 ft	80 ft
Lot Frontage (max)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Lot Coverage (max)***	15%	20%	20%	30%	30%	30%	30%	30%	30%	30%	30%	30%	30%
Open Space (min)	70%	65%	65%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%
Front Setback (min)	40 ft	25 ft	30 ft	25 ft	30 ft	25 ft	30 ft	25 ft	25 ft	25 ft	15 ft	15 ft	15 ft
Front Setback (max)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Side Setback (min)	20 ft	12.5 ft	15 ft	7.5 ft	10 ft	7.5 ft	10 ft	7.5 ft	10 ft	7.5 ft	7.5 ft	7.5 ft	10 ft
Rear Setback (min)	25 ft	25 ft	15 ft	15 ft	15 ft	15 ft	15 ft	15 ft	15 ft	15 ft	15 ft	15 ft	15 ft
Frontage Buildout (min)^	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

\*Old Lot = Lot created before 12/7/1953. New Lot = lot created on or after 12/7/1953