

Transit-Oriented Development Overlay District

Model Bylaw

This model Transit-Oriented Development bylaw provides a foundation for developing a municipal TOD bylaw for your community. No single “model” bylaw or ordinance can be adopted by a municipality without some tailoring to the unique characteristics and needs of that individual municipality. Therefore, readers are encouraged to revise and adapt the text to reflect your community’s character, and to be compatible with your existing zoning bylaws/ordinances

Cities and towns are not required to adopt the exact procedures and regulations identified in this document since the development review process may vary considerably among municipalities across the state. Rather, municipalities must examine their development review processes to determine how the model bylaw can be adapted to fit into the existing procedures and regulations.

The annotations provided below will not be part of your bylaw/ordinance. These annotations are intended to provide background and context to explain the provisions of the model bylaw.

Several zoning bylaws (including draft bylaws, adopted bylaws, and model bylaws) from communities around the country were used to develop this bylaw. In some instances, language was taken verbatim from these bylaws. The Cities and Towns whose bylaws were consulted for this model include Abington, MA; Needham, MA; Somerville, MA; Concord, MA; Canton, MA; Ashland, MA; Woburn, MA; Lower Merion, PA; Hartford, CT; Columbus, OH; Minneapolis, MN; Seattle, WA; Salt Lake City, UT; Atlanta, GA; Sacramento, CA; Tempe, AZ; and Phoenix, AZ.

Section 1.0 Background and Authority

The Town finds that Transit Oriented Development benefits the general health and welfare of the inhabitants of the town by fulfilling existing housing, transportation and employment needs. Therefore, The Town implements this bylaw and designates certain zoning districts as Transit Oriented Development Districts (“TOD” Districts) to encourage furtherance of transit oriented development.

Section 2.0 Purpose

The purposes of the Transit Oriented Development (TOD) Overlay District are to:

1. Encourage a mix of moderate and high density development within walking distance of transit stations to increase transit ridership;
2. Create a pedestrian-friendly environment to encourage walking, bicycling and transit use;
3. Provide an alternative to traditional development by emphasizing mixed use, pedestrian oriented development;
4. Create a neighborhood identity that promotes pedestrian activity, human interactions, safety and livability;

5. Encourage building reuse and infill to create higher densities;
6. Reduce auto dependency and roadway congestion by locating multiple destinations and trip purposes within walking distance of one another;
7. Provide a range of housing options for people of different income levels and at different stages of life.

Section 3.0 Authority

This Bylaw is adopted pursuant to M.G.L.c. 40A and the Home Rule Amendment to the Massachusetts Constitution.

Section 4.0 Applicability

The TOD Overlay District consists of those areas shown on [INSERT TITLE OF MAP] on file with the Town/City Clerk and dated [INSERT DATE MAP IS ADOPTED BY THE CITY/TOWN].

Typically these areas are within ¼ to ½ mile of a transit station, measured from the center point of the passenger platform or passenger loading area.

Section 5.0 Definitions

Commercial Parking Facilities. Parking facilities created for the purpose of generating income from paid parking, but not including commuter parking lots owned by the transit operator.

Development. The construction of new buildings or structures and modification of, additions to, and expansion of existing buildings or structures.

Drive-Through Facility: Facilities that allow for transactions of goods or services without leaving a motor vehicle.

Fast Food Establishment. A food service business that offers relatively immediate service of semi-prepared or prepared foods for take-out or in-house consumption in disposable containers and serving walk-in and/or drive-through customers.

Mixed-Use. Development contained on a single parcel or adjoining parcels that includes different, complimentary uses (both residential and non-residential) and which provide for a variety of activities throughout the day.

Overlay Zoning District. A zoning district that encompasses one or more underlying zoning districts, and imposes additional or alternative requirements or provisions than required by the underlying zoning.

Park and Ride Lot. A parking structure or surface lot intended for use by persons riding transit or carpooling.

Pedestrian-Friendly Design. The design of communities, neighborhoods, streetscapes, buildings and other uses that promotes pedestrian comfort, safety, access and visual interest.

Public Seating Area. Any outside seating area designated for use by the public, including outdoor seating owned and operated by eating and drinking establishments.

Service-Oriented Office – Office uses with walk-in business and/or whose clientele is the general public.

Shared Parking. Parking that is utilized by two or more different uses that generate different peak period parking demand.

Strip Commercial Development. Commercial development characterized by a low density (one story) linear development pattern (usually one lot in depth), separate curb cuts for each use, no defined pedestrian system, and high traffic volumes. Parking lots are generally located between the street and the front entrance to the businesses.

Townhouse. A single family residence typically of two to three stories attached to a similar residence by a common sidewall.

Transit-Oriented Development. A development pattern created around a transit facility or station that is characterized by higher density, mixed uses, a safe and attractive pedestrian environment, reduced parking, and a direct and convenient access to the transit facility.

Transit Station. The area including the platform which supports transit usage and that is owned and/or operated by the transit agency.

Section 6.0 Procedural Requirements

Certain specified uses are allowed by right in the TOD District. Other uses may be allowed by Special Permit. The Planning Board shall be the Special Permit Granting Authority for any Special Permit granted in a TOD District. Procedural Requirements, including application requirements, abutter notification and public hearing shall be in accordance with the Special Permit Procedures as found elsewhere in the Town's Zoning Bylaw [REFERENCE SECTION OF BYLAW/ORDINANCE]. The Planning Board, acting as the Special Permit Granting Authority, may grant a Special Permit in a TOD District if it finds that the use will: 1) promote the purpose of the Overlay District as described in Section 2.0; and 2) include active ground floor uses, subordinate parking, and have upper floor residential units.

Section 7.0 Use Regulations

Section 7.1 Allowed Uses:

The uses listed below in Table 1 are allowed in the TOD Overlay District

Table 1. Uses Allowed By Right in the TOD Overlay District

Apartments <above ground floor in active business districts>
Townhouses
Service-oriented office uses
Non-service oriented office uses on upper floors only
Mixed uses with ground floor retail, personal services and/or service-oriented offices
Banks
Retail under 10,000 square feet
Government buildings
Hospitals
Hotels
Transit stations
Restaurants (except fast food establishments which may only be authorized by Special Permit)
Civic, cultural and community facilities
Theaters, except drive-ins
Dry cleaners stores with cleaning facilities outside the TOD Overlay District
Buildings and uses accessory to the above, such as parking garages, gift shops, cafeterias and day care facilities

A TOD overlay district should include a mix of uses to encourage activity throughout daytime and evening hours, and to encourage pedestrian travel for different trip purposes.

Section 7.2 Prohibited Uses

The uses listed below in Table 2 are prohibited in the TOD Overlay District

Table 2. Prohibited Uses in the TOD Overlay District

Auto sales, auto service and repair, auto storage and auto rental uses
Gasoline sales
Heavy equipment sales and service
Manufactured home sales
Salvage yards
Industrial uses
Towing services and vehicle storage yards
RV mobile home sales yards and storage
Car wash
Strip Commercial Development
Mini-storage and self-storage facilities
Commercial laundries with dry-cleaning operation on site
Warehousing and distribution facilities
Low density housing (less than 7 units per acre)
Golf Courses
Cemeteries
Boat sales and storage yards
Freight terminals

Amusement parks
Building contractors
Retail uses, except grocery stores, larger than 10,000 square feet, unless part of a mixed-use development
Drive-in theaters
Drive-through facilities
Commercial parking facilities

Section 7.3 Special Permit Uses

The following uses (Table 3) may be allowed by Special Permit. The Planning Board, acting as the Special Permit Granting Authority, may grant a Special Permit in a TOD District if it finds that the use will: 1) promote the purpose of the Overlay District as described in Section 2.0; and 2) include active ground floor uses, subordinate parking, and have upper floor residential units.

Table 3. Uses that May Be Allowed by Special Permit

Single family homes
Commercial surface parking lots
Laboratories
Fast Food Establishments
Research facilities
Stadiums and sports facilities with over 10,000 seats
Grocery stores over 10,000 square feet

The types of uses permitted, prohibited, or allowed with a Special Permit may differ based on the character of the area in which the TOD is located. The goal of a TOD is to encourage pedestrian oriented uses and discourage auto-dependent or auto-oriented uses. Further, TODs should encourage uses that can be easily served by transit, that have high levels of visitor activity, and/or that have high employment to floor area ratios. Thus, office, retail and entertainment establishments are encouraged, while industrial and warehouse uses (which generally have fewer visitors and two or less employees per 1,000 square feet) are prohibited. For example, TODs in small suburban centers may wish to prohibit fast food establishments outright, while planners may wish to integrate fast food establishments into stations located in dense urban settings. Communities may also wish to craft their bylaw to distinguish between types of fast food establishments. Other uses that might be permitted in some TOD districts and not in others include commercial parking facilities and single family homes. Commercial surface lots should only be allowed for commuter parking or for short term parking (1-2 hours) to serve retail or service uses. Such lots are generally not conducive to a pedestrian-friendly environment, and should be located to the rear of buildings, and not along major pedestrian ways.

Research has found that housing densities of at least 7-10 units per acre are required to support transit.¹ Thus, to accommodate single family homes, zoning must allow for 6,000 square foot or smaller lots, and should include a provision for a maximum lot size. Single family homes could be allowed on the periphery of a TOD adjacent to an existing single family neighborhood.

Section 8.0 Parking Requirements

Parking requirements within the TOD Overlay District are as follows:

1. A maximum of 1 parking space per multi-family unit, plus 1 guest space per 15 units, is permitted.
2. Parking for non-residential uses shall be provided at not more than 3 per 1,000 square feet (gross) and not less than less than 1 per 500 square feet (gross) for uses covering less than 1,000 square feet.
3. Further reduction in the number of required parking spaces may be permitted by a Special Permit granted by the Planning Board after a finding by the Board that the development will be adequately served by users of public transportation.
4. Shared parking is strongly encouraged. On lots serving more than one use, the total number of spaces required may be reduced, provided that the applicant submits credible evidence to the satisfaction of the City/Town Planning Board that the peak parking demand of the uses do not coincide, and that the accumulated parking demand at any one time shall not exceed the total capacity of the facility. Such evidence must take into account the parking demand of residents, employees, customers, visitors, and any other users of the lot. It must also take into account parking demand on both weekends and weekdays, and both during the daytime and overnight.
5. Where feasible, ingress and egress from parking shall be from side streets or alleys.
6. Surface parking lots must be to the rear of buildings, and shall not exceed one acre in size. Surface lots are prohibited in front of businesses.
7. Surface parking lots with more than thirty spaces shall be divided into separate areas by landscaped areas of at least 10 feet in width. A minimum of 15 percent of all surface lots shall be landscaped. No row of parking shall be more than 10 spaces wide without being interrupted by a landscaped area. Each landscaped area shall have at least one tree. Landscaped areas should be planted with low-maintenance, salt tolerant plants capable of withstanding extreme weather conditions.
8. Surface lots shall be screened along all sidewalks by a landscaped buffer of not less than six feet, or three foot walls or fencing compatible with the adjacent architecture.
9. Surface parking lots shall provide pedestrian walkways and connections to the sidewalk system.
10. On-street parking is permitted and encouraged.
11. Parking structures shall have well-designed and marked pedestrian walkways and connections to the sidewalk system.
12. Parking structures must include ground level retail along all streets and sidewalks.
13. Parking structures shall be designed to be compatible with adjacent buildings and architecture.
14. Bicycle racks shall be provided on site at a ratio of 1 space for every 15 automobile parking spaces or portion thereof.

The Massachusetts Office of Commonwealth Development is developing Bicycle Parking Facility Requirements for its Transit Oriented Development Bond Program. Municipalities adopting a TOD overlay district are encouraged to review these requirements and incorporate some of the bicycle parking design and materials requirements into their bylaws to ensure that quality bicycle parking is provided.

15. All parking lots and structures must provide pedestrian access ways to streets that meet the Dimensional Requirements detailed in section 9.0, below.
16. Signage that shows the location and best means of access to the transit station must be provided at all parking facilities.

The density and location of the TOD district will dictate whether or not structured parking should be encourage or allowed. In more suburban town centers, structured parking is less desirable than in more dense urban areas.

Section 9.0 Dimensional Requirements

The development standards in a TOD overlay district bylaw are intended to created densities that will support transit as well as to provide a pedestrian friendly environment.

1. Building Setbacks

- a. A building shall have a minimum front yard setback of 0 feet and a maximum setback of five feet from the front property line. A setback may be increased to 25 feet from the front property line if a courtyard, plaza or seating area is incorporated into the development adjacent to the public street.

Limited setbacks help to create a pedestrian-friendly environment. Buildings with windows located close to the sidewalk provide a visually stimulating environment for pedestrians. Conversely, buildings set back too far from the pedestrian walkway result in a less pedestrian-inviting environment.

- b. The minimum setback for a side yard shall be zero feet. Where deemed appropriate by the Planning Board, alleys between buildings may be encouraged for the provision of beneficial public connections between buildings, open spaces and streets. The maximum side setback shall be determined by the Planning Board, and shall not exceed 25 feet.

In smaller town centers or rural locations, it may be more appropriate to have side yard setbacks of up to 15 feet. In town centers or urban areas with substantial vehicle traffic, side setbacks may need to be up to 30 feet to accommodate two-way traffic to rear parking and loading areas.

- c. The minimum setback for a back yard shall be 15 feet.
- d. The setback provisions in section 1.a-c may be waived with a Special Permit issued by the Planning Board where such waiver would further the purposes of this Bylaw as listed in Section 2.0.

2. Bulk and Lot Coverage

- a. Minimum lot coverage is 60 percent of the net lot area. This minimum may be reduced if a minimum of 40 percent of the lot is developed as improved public open space or if ingress, egress or other building code requirements would otherwise make the development infeasible. The Planning Board shall have final discretion in deciding if land constitutes improved open space for the purposes of this provision.
- b. Maximum lot coverage is limited to 85 percent. This lot coverage may be increased to 100 percent for mixed use buildings, or for renovated historic structures.

The 100 percent lot coverage is not appropriate for small town centers and rural settings.

- c. The maximum by-right floor-to-area ratio (FAR) is 1.5. The maximum FAR shall be 2.5, upon the discretion of the Planning Board. The Planning Board may issue a Special Permit to grant additional FAR beyond 1.5 up to 2.5 for affordable housing or for mixed use developments if it finds that such an increase furthers the purposes of this bylaw.

The floor-area ratio is the ratio of the gross square footage of structures on a site to the gross square footage of the site. For example, an FAR of 1.0 on a 10,000 square foot site could be achieved with a one-story building of 10,000 square feet, a two story building in which each floor measures 5,000 square feet, a four story building in which each floor measures 2,500 square feet, etc. The FAR controls the density of the site. A high FAR will allow higher densities than a low FAR. FAR allows flexibility in design while controlling for overall building size. The FAR is used in conjunction with height limits, setbacks, and lot coverage to arrive at acceptable densities and design of a development.

Each Planning Board must adopt an FAR that is suitable for the character of the neighborhood in which the TOD is located. In rural areas, a 2.5 FAR will be too high, and even the 1.5 FAR may need to be reduced to conform to the surrounding built environment. In urban areas, the acceptable FAR may be significantly higher than 2.5. The primary goal of TOD is to concentrate development in the area around the train station, and to create a pedestrian-friendly environment. Higher density allowed by a higher FAR helps to achieve these goals.

It is important to ensure that the provisions for minimum lot coverage coupled with minimum height are within the by-right FAR when implemented.

3. Building Height Requirements

- a. The minimum allowable building height is 28 feet above grade.

The minimum height is meant to encourage density and create an aesthetic appeal throughout the TOD area. When determining minimum height, local officials must require a height that allows for at least two stories. Urban practitioners may want to consider requiring a height that allows for at least three stories.

- b. The maximum building height is 78 feet above grade.

In more rural areas or smaller town centers, it may be appropriate to reduce this maximum height to 45 feet or three stories. In more urban areas, the height can be much higher and should reflect the character of the neighborhood in which the overlay district is located.

- c. Notwithstanding the building height provisions noted above, no building shall exceed by more than two stories or thirty feet, whichever is less, the height of the tallest building or buildings that front on the same street and are located within 150 feet of such building.

This standard can be relaxed in dense urban areas. The allowed building heights should reflect the context in which the TOD is located. In areas with buildings exceeding 78 feet, the maximum height should be set to reflect the height of surrounding buildings.

- d. No portion of a building locate within 50 feet of an existing one or two family dwelling in a residential zoning district shall be permitted to exceed three stories or 45 feet, whichever is less.

4. Driveways

- a. The creation of new sidewalk curb cuts shall be avoided whenever an alternative point of access is available or can be created. Shared access agreements are encouraged.
- b. The minimum width for one-way traffic is 12 feet, and the maximum 18 feet.
- c. The minimum width for two-way traffic is 18 feet and the maximum is 22 feet.

5. Sidewalks

- a. A minimum unobstructed sidewalk width of five feet is required. Sidewalk width can be up to 20 feet, and is dependent on expected level of activity.

Smaller towns may want to decrease the allowable sidewalk width.

- b. Sidewalks shall be constructed along the frontage of all public streets.

- c. Pedestrian scale lighting fixtures no greater than 15 feet in height shall be provided along all sidewalks and walkways to provide ample lighting during nighttime hours.

Lighting height may be lower in smaller town centers and rural areas, and up to 20 feet in more urban areas.

- d. All sidewalks and walkways shall meet ADA requirements.e.

Section 10.0 Design Standards

The design standards included in a TOD overlay district bylaw are intended to create a pedestrian friendly environment. Landscaping should both provide shade and create an aesthetically pleasing setting. The pedestrian environment is further enhanced by locating building facades close to the sidewalk, and by ensuring the facades are architecturally interesting. Street level windows add to the interest of a pedestrian way. Street furniture will provide opportunities for pedestrians to rest and relax, and trash receptacles will help keep the pedestrian ways clean. Lighting will help increase the safety of the area in the evening.

When evaluating the design components of plans, the Planning Board should consider who will be using the area around the transit station and when the station area will be used. Will the area have a lot of daytime or nighttime activity? Will the area be a destination for work or entertainment? What types of activities does the community want to encourage in the station area? For example, if a TOD is located in a primarily residential area, the Planning Board may require fewer benches than would be required in an area with heavy daytime pedestrian traffic. Further, the Planning Board should consider how projects in the station area tie into the surrounding neighborhoods and existing built environment. Buildings should be designed and materials chosen to fit into the existing built environment, or to create a new sense of place. (This goal will differ based on the existing characteristics of an area. For example, in a location with important historic character, the Planning Board may wish to encourage design that will blend with the surroundings. Conversely, in an area characterized by strip mall development, the Planning Board may wish to encourage design elements that will create a new identity for the area.)

1. Streetscapes

- a. Street trees shall be planted by the developer along all public rights-of-way. Street trees shall be planted at intervals of no more than 40 feet. Tree species shall be selected that require minimal maintenance and are of native origin.

In more dense urban areas, communities may wish to allow non-native species that are more tolerant of pollution and other harsh conditions found in congested, built-up areas.

- b. Pedestrian amenities such as benches, public art, planters, trash receptacles, etc. are encouraged and shall be located along sidewalks, and in landscaped areas, open spaces and plazas.
- c. All new utilities shall be placed underground

2. Building Facades.

- a. All buildings must provide a main entrance on the façade of the building facing the transit station or streets leading to the transit station.
- b. The main entrance of any building shall face the street. The main entrance shall not be set back more than five feet from the front property line, unless a public seating area or plaza is provided in front of the building.
- c. Facades over fifty feet in length shall be divided into shorter segments by means of façade modulation, repeating window patterns, changes in materials, canopies or awnings, varying roof lines and/or other architectural treatments.
- d. The ground floor of a front commercial façade shall contain a minimum of 50 percent glass.

The purpose of specifying glass is to allow for views into the interior of the building, providing interest for pedestrians. Clear glass that permits a clear view into a building is preferable to tinted or reflective glass that prohibits views into a building

- e. Architectural style and materials shall be compatible with the surrounding area, and facades must provide a visually interesting environment.
- f. All buildings shall articulate the line between the ground and upper levels with a cornice, canopy, balcony, arcade, or other visual device.
- g. All structured parking must be designed so that the only openings at street level are those to accommodate vehicle ingress and egress, and pedestrian access to the building. All openings must be designed so that vehicles are not visible from the sidewalk. The remainder of the street frontage must be available for retail or commercial usage.

3. Signage

- a. Height. No signs shall extend higher than the height of the ground story.
- b. Size. No façade sign shall exceed 25 percent of the ground floor wall area. No other sign shall exceed 25 square feet in size. Signs may be double sided.
- c. Design. All signs within a given district shall be complimentary in their use of color, shape, and material.

Section 11.0 Exemptions and Exclusions

This bylaw shall apply to all new construction in the TOD District. It shall apply to reconstruction or redevelopment when the redevelopment will result in an increase of property value of 50% or greater of the assessed values of the existing property. The provisions of this bylaw shall apply to reconstruction of existing property where the reconstruction will result in less than 50% increase in property value over the assessed value of the existing property to the maximum extent feasible.

Section 12.0 Severability

If any provision of this bylaw is found to be invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected but shall remain in full force. The invalidity of any section of this bylaw shall not affect the validity of the remainder of the Town's/City's Zoning Bylaw/Ordinance.

(Footnotes)

¹See, for example, Newman, P. and J. Kenworthy, *Cities and Automobile Dependence*, Gower Publishing Company Limited, Hants, England, 1989, and Parsons Brinkerhoff & Quade and Douglas, Inc., *Report 16: Transit and Urban Form, Volume 1*, Transportation Research Board, National academy Press, Washington, D.C., 1996.