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Barney S. Heath  
Director

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**MEMORANDUM**

**DATE:** Updated: March 25, 2022  
Original: 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 amendments to the City of Newton Zoning Ordinance, Chapter 30, Section 1.5.5.B. Floor Area, Gross to clarify measurement of gross floor areas for buildings with exterior insulation, Section 4.2.2. Dimensional Standards to correct scrivener's errors concerning the maximum stories permitted in the Mixed Use 2 and Mixed Use 4 districts, and Section 4.2.3. All Building Types in Mixed Use to correct a scrivener's error concerning the maximum height permitted in the Mixed Use 4 District.

**MEETING:** March 28, 2022

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

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**Overview**

At the February 14 ZAP meeting, staff presented provided the Committee and the Planning & Development Board with information about proposed changes to the Zoning Ordinance to correct internal inconsistencies, improve clarity, and fix typos or errors.

Of the three items presented, Councilors asked several clarifying questions specifically on the update to exempting exterior insulation from FAR calculations. Staff confirmed that if adopted, the changes proposed in this item would allow an owner of a commercial building to add exterior insulation without needing to do a FAR calculation. Staff also explained that the setback requirements in Section 1.5.5 do not differentiate between residential and commercial districts, but rather between residential districts and all other districts. Several Councilors said that exempting exterior insulation in non-residential districts aligns with the original intention of of sustainability zoning measures adopted in 2019.

The attached draft ordinance revisions (Attachment A) provide an overview of the proposed changes to Chapter 30. 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. The content in Attachment A is identical to the version presented by staff on February 11.

**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'

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