

§ 250-5.12 Mixed Use District (MUD)

This local law shall be known as Local Law No. 3 of 2017 entitled Mixed Use District.

This section of the Town of Penfield Zoning Ordinance applies to all mixed use developments in the Town of Penfield. For the purposes of the ordinance, “mixed use” means a combination of residential, commercial and civic uses, arranged vertically (in multiple stories of buildings) or horizontally (adjacent to one another), at a pedestrian scale that encourages less reliance on the automobile for the daily lives of residents.

The Mixed Use District was generated in conjunction with the Town of Penfield Mixed Use Development Manual. The Manual serves as a guidebook for the development in the District (e.g. definitions, design criteria, development intensity).

A. Purpose.

- (1) The purpose of the Mixed Use District is to permit, where zoned, the creation and construction of mixed use developments within the town. All development must comply with the following ten principles of mixed use development:
 - (a) A mixture of complementary land uses to create economic and social vitality and encourage the linking of pedestrian and vehicular trips.
 - (b) Flexible housing alternatives.
 - (c) Areas that are safe, comfortable and convenient for pedestrians.
 - (d) Flexibility in the siting and design to support future changes in land use.
 - (e) Walkability within neighborhoods with walkways and trails that encourage pedestrian and bicycle travel.
 - (f) Variety of services within walking distance.
 - (g) Efficient use of land with compact, clustered development.
 - (h) Development that supports public transit where applicable.
 - (i) Open space preservation/creation and reduction of impact on natural resources.
 - (j) Transportation planning that reduces vehicular demands.

B. Mixture of Uses.

- (1) Mixed use developments shall provide a variety of compatible uses located within the same project site in an integrated manner. The minimum number of uses is based upon the size of the development. **Table 6.1** of the Mixed Use Development Manual sets forth the minimum number of uses per development size, and the minimum percentage of each use in square footage.

C. Permitted Uses.

- (1) The following uses are permitted in the Mixed Use District. No vehicular drive-through operations are permitted. Commercial uses shall be scaled as appropriate to be consistent with the size and location of a specific parcel.

- (a) Permitted single-family and multi-family residential uses shall include the following housing types:

- [1] Low-Rise Housing (4 stories or less)
- [2] Townhouses
- [3] Duplex
- [4] Multiplex
- [5] Cottage
- [6] Multi-family
- [7] Single-Family Detached
- [8] Single-Family Attached
- [9] Vertical Mixed Use with Residential on Top
- [10] Universal Design

- (b) Permitted commercial uses shall include the following:

- [1] Insurance office of independent or general agents.
- [2] Medical and dental offices and clinics, excluding overnight occupancy.
- [3] Offices for other licensed professionals, such as architects, designers, engineers, etc., excluding, however, any warehouse or storage areas.
- [4] Attorney or law offices.

- [5] Other applicable office space.
- [6] Financial establishments.
- [7] Art galleries and studios.
- [8] Grocery Stores.
- [9] Laundromat or dry-cleaning pick-up establishments.
- [10] Bakeries.
- [11] Drugstores or pharmacies.
- [12] Hardware stores, garden supply stores, and paint and wallpaper stores.
- [13] Barber and beauty shops.
- [14] Flower shops.
- [15] Liquor stores.
- [16] Retail stores.
- [17] Retail outlets and department stores.
- [18] Theaters (not including drive-in theaters).
- [19] Bowling alleys.
- [20] Civic uses, such as, churches, schools, community centers, and other public-oriented uses.

D. Conditionally Permitted Uses.

- (1) The following uses are conditionally permitted in the Mixed Use District. Commercial uses shall be scaled as appropriate to be consistent with the size and location of a specific parcel.
 - (a) Bar, tavern, restaurant or other eating place.
 - (b) Hotels and bed and breakfast establishments
 - (c) Nonprofit institutions for charitable, religious, cultural or community social purposes.
 - (d) Nursery or day-care centers, and nonprofit schools.
 - (e) Combinations of permitted single-family residential, business non-retail, limited business and general business uses.

- (f) Entertainment (adult uses and adult entertainment establishments are not permitted).
- (g) Other uses not specifically listed above as Permitted Uses, but determined by the board having jurisdiction to be similar in nature and compatible with the purposes of the Mixed Use district may also be considered, provided, however, that in any event, no Conditional Use Permit shall or may be issued with respect to any explicitly prohibited use. Upon approval from the board having jurisdiction, applicants are required to obtain a Conditional Use Permit from the Town Clerk prior to occupying the space.

E. Accessory Uses.

- (1) Uses that are accessory to an integral part of and used solely by the permitted or conditionally permitted use and determined appropriate by the Authorized Official or the board having jurisdiction, as the case may be. Types of accessory uses include, but are not limited to, parks and recreation facilities, private and public active and passive recreational uses, and multi-use trail systems.

F. Change of Use.

- (1) At any time a specific use originally permitted within this district is to be changed so that it involves a separate, different and distinct use, process or product, an Authorized Official shall make a determination if an application must be made to the Zoning Board of Appeals for a Change of Use Permit or Conditional Use Permit.
- (2) Upon a determination by the authorized official that any business or conditional use originally permitted within the Mixed Use District is to be changed so that it involves a separate, different and distinct use, process, product or service, or involves a new operator, an application for a conditional use permit must be made to the board having jurisdiction. Prior to authorizing the Town Clerk to issue the conditional use permit, the board having jurisdiction shall ensure that the applicant satisfies the Town's standards and requirements of this section. As part of this process, the board having jurisdiction may require the modification of any and all phases of the operation that have become, or are liable to become, detrimental to the neighborhood. The board having jurisdiction, in its absolute discretion, in cases it deems to be appropriate, may delegate authority to the authorized official to grant or deny a conditional use permit consistent with the standards and requirements of this section.

G. Minimum Dimensional Requirements.

- (1) All mixed use developments shall comply with the minimum dimensional requirements are set forth in **Table 6.1** of the Mixed Use Development Manual.
- (2) The Planning Board or the Zoning Board of Appeals, as the case may be, shall have the power to establish, determine and modify applicable provisions of the Mixed Use District with regard to setbacks for the purpose of enabling and encouraging flexibility of design and development of land in such a manner as to promote the most appropriate use of land and to facilitate the adequate use of streets, utilities and amenities that will benefit the Mixed Use District and/or development.
- (3) No structure shall be greater than two stories or 35 feet in height, whichever is less, within 100 feet of any adjacent permitted residential zoning district abutting the Mixed Use District.
- (4) Within the mixed use development, a zero (0) setback from the side property line(s) may be permitted to help create a more compact development. Minimum setbacks shall be required to comply with fire and building codes.

H. Parking.

- (1) Shared parking for different uses is required within all mixed use development. The minimum number of parking spaces for a mixed use development shall be determined by a study prepared by the applicant following the procedures of the Urban Land Institute (ULI) Shared Parking Report or Institute of Transportation Engineers (ITE) Shared Parking Guidelines. A formal parking study may be waived by the Planning Board for small developments if it is demonstrated that sufficient parking is available for the planned uses.
- (2) Shared parking spaces for residential units must be located within a maximum of 300 feet of dwelling unit entrances that are being served by those spaces.
- (3) There shall be limited visibility of parking lots from the main-street-facing sides of buildings. Single row, on-street parking shall be permitted.
- (4) Adjacent properties abutting the Mixed Use District shall be adequately screened from parking structures and lots.
- (5) Parking provided to the general public shall be clearly marked and separate from private resident parking spaces.

- (6) The size and number of ADA compliant parking spaces for each development must meet the New York State Building Code.
- (7) Residential units such as single family detached or semi-detached, townhouses, or other similar housing shall be provided with private parking spaces, garages, or other covered parking spaces. Visitor parking shall be included as shared parking with other adjacent land uses.

I. Connectivity & Pedestrian Access.

- (1) Connectivity involves providing options for getting from one place to another, reducing traffic, and creating viable street networks.
 - (a) Sidewalks shall be installed along all roads both public and private, and shall connect to front building entrances, parking areas, central open space, and other pedestrian destinations. Sidewalks shall also be included to connect common areas, parking areas, open space, and recreational facilities within the mixed use development.
 - (b) All mixed use developments shall comply with the dimension requirements for sidewalks that are set forth in **Table 5.4** in the Mixed Use Development Manual.
 - (c) All mixed use developments shall comply with the dimension requirements for major multi-use walkways and trails intended to accommodate pedestrians, cyclists, and other users are that set forth in **Table 5.4** in the Mixed Use Development Manual.
 - (d) Bicycle racks shall be provided close to building entrances, public plazas, and other public gathering areas.

J. Public Open Space.

- (1) In reference to open space, “public” refers to those areas within a mixed use development that shall be available for use by local residents and the general public. These spaces may be owned, operated, and maintained by an association, organization, agency or municipality. Public open space can take the form of active and passive recreation areas, public courtyards, town square, and other areas that are be used for public gatherings.
 - (a) All public open space shall be restricted from future subdivision and development.

- (b) The amount of public open space required is based upon the size of a mixed use development. The board having jurisdiction shall establish the required amount of public open space required for each development.
- (c) All structures shall be constructed with connectivity to public open space.
- (d) No portion of any road right-of-way area may be used for calculating the minimum required amount of total open space.
- (e) The proposed site plan shall clearly delineate between public space and private space. Private and semi-private outdoor spaces (decks, patios, front and back yards, etc.) are encouraged, but are not considered public open space.

K. Landscaping.

- (1) All landscaping proposed within the Mixed Use District shall be subject to the review and approval of the Planning Board or Zoning Board of Appeals, as the case may be, and shall comply with the Mixed Use Development Manual.

L. Lighting.

- (1) Lighting of properties within the Mixed Use District shall be coordinated so as to provide consistency of design and to maximize efficient use of energy. All such lighting shall be no more than 16 feet in height, and located so as not to cause glare to any adjacent sites and shall be approved subject to the Planning Board or Zoning Board of Appeals, as the case may be, and shall comply with the Mixed Use Development Manual as written in section 5.1.10.

M. Signage.

- (1) All signage proposed in the Mixed Use District shall comply with the requirements of the Town of Penfield Zoning Ordinance.

N. Architecture.

- (1) The requirements for architectural design standards are set forth in the Mixed Use Development Manual. The final design of any proposed mixed use development shall be subject to the review and approval of the Planning Board or Zoning Board of Appeals,

as the case may be. The Board may refer the review of architectural designs to its Architectural Consultant at its discretion for report and recommendation.

O. Hours of Operation.

- (1) Business establishments within the Mixed Use District shall be permitted to operate from 6:00 a.m. to 12:00 a.m. on a daily basis. Based on the intensity of use and its potential impact on the neighboring area, the Planning Board or Zoning Board of Appeals, as the case may be, may modify the hours of operation as part of the process of granting a Conditional Use Permit.

P. Area Rezoned.

- (1)The 360+/- acres, as described in Schedules "A" and "B", attached hereto and made a part hereof are rezoned to Mixed Use District (MUD) and the Official Zoning Map and Zoning Ordinance of the Town of Penfield be and the same are amended to reflect the aforesaid zoning changes for the properties described in Schedules "A" and "B".

Q. Effective Date.

- (1)This local law shall take effect immediately.