

1-00.00 MIXED USE DEVELOPMENT DISTRICT : TOWN/CITY CENTER

1-01.00 Scope

To regulate development within the Mixed Use Development District (MXDV), and to protect the public health, safety, and general welfare in the town of _____ by establishing controls that will facilitate development while protecting the public interest, setting limits on the density and amount of each use while permitting flexible development.

1-02.00 Purpose:

The purpose of this bylaw is to foster a greater opportunity for creative development by providing guidelines which encourage a mix of uses compatible with existing and neighboring properties; to provide housing and business uses in locations where town services are available; to promote utilization of existing buildings and property, and to encourage the provision of open areas. The intent, furthermore, is to encourage interaction among activities located within the Mixed Use Development District (MXDV), to enhance business vitality, reduce vehicular traffic, provide employment opportunities for residents close to home, ensure the compatibility with each other of the commercial, industrial and residential uses, ensure that the appearance and effects of buildings and uses are harmonious with the character of the area in which they are located by:

- 1-02.01 Allowing a diversity of uses in close proximity in the district within a limited area, including residential, retail, office, and industrial,
- 1-02.02 Preserving and restoring the overall character of the district,
- 1-02.03 Promoting a balance of land uses,
- 1-02.04 Promoting the opportunity for people to work, meet, shop and utilize services in the vicinity of their residences,
- 1-02.05 Providing opportunities for the development of affordable housing,
- 1-02.06 Providing opportunities for a mixture of uses in the same building,
- 1-02.07 Promoting a positive pedestrian environment in the district,
- 1-02.08 Facilitating integrated physical design,
- 1-02.09 Promoting a high level of design quality,
- 1-02.10 Encouraging the development of flexible space for small and emerging businesses,
- 1-02.11 Facilitating development proposals responsive to current and future market conditions, and
- 1-02.12 Encouraging the development of open spaces and parks within the district to accommodate workers, residents, pedestrians and shoppers.

1-03.00 Definitions

1-03.01

1-04.00 Use Regulations

1-04.01 Permitted Uses

- 1-04.01.01 Automobile service and/or repair station,
- 1-04.01.02 Cinema, theatre, or auditorium,
- 1-04.01.03 Eating establishments,
- 1-04.01.04 Financial institutions,
- 1-04.01.05 Health clinic,
- 1-04.01.06 Health club,
- 1-04.01.07 Light manufacturing, including fabrication, assembly, and finishing work,
- 1-04.01.08 Offices associated with a permitted light industrial use,

- 1-04.01.09 Park or playground,
- 1-04.01.10 Parking lot or parking garage,
- 1-04.01.11 Personal service establishment, such as hair care, laundry, photography studio,
- 1-04.01.12 Professional offices,
- 1-04.01.13 Radio or television studio,
- 1-04.01.14 Retail uses, except adult entertainment, and
- 1-04.01.15 Residential uses, except single-family.
- 1-04.01.16 Service industries that provide service such as the repair of appliances, tooling, printing, blueprinting, bookbinding, and food services.

1-04.02 Prohibited Uses

- 1-04.02.01 Adult entertainment uses,
- 1-04.02.02 Animal hospitals, animal sales,
- 1-04.02.03 Automobile or truck sales,
- 1-04.02.04 Bars and cocktail lounges,
- 1-04.02.05 Drive-up services associated with any commercial use,
- 1-04.02.06 Junkyards,
- 1-04.02.07 Recycling collection facilities,
- 1-04.02.08 Service stations,
- 1-04.02.09 Wholesale business, except if affiliated with and accessory to another use on the same lot, and
- 1-04.02.10 New construction that requires razing an existing structure.

1-04.03 Uses permitted with Site Plan Approval/Special Permit

- 1-04.03.01 Any other use compatible with the above-allowed uses. Application for determination for an approved use shall include a detailed description of the use, approximate number of employees and estimated volume of traffic to be generated, as well as the criteria set forth in the site plan review section (of this chapter).
- 1-04.03.02 Enlargement or expansion of existing buildings whether residential, commercial or industrial.
- 1-04.03.03 Artist studio/residence.

1-05.00 Same-structure/On-site Mixed Use

- 1-05.01 Within the district there shall be no restriction on combining different categories of use within the same building except any imposed by the State Building Code or other federal, state, or local regulations.
- 1-05.02 Uses must follow the Performance Standards in this section.

1-06.00 Performance Standards

- 1-06.01 No use shall be permitted that causes or results in dissemination of dust, smoke, gas or fumes odor, noise, vibration or excessive light under standards set forth in the performance criteria in this chapter.
 - 1-06.02 Any other performance standards of the town shall apply to the MXUD in addition to these.
- Access and Traffic Impacts:
- 1-06.03 Traffic and safety impacts to the existing and proposed roads shall be minimized.
 - 1-06.04 Access shall be provided to the extent feasible through an existing side street or a shared driveway; curb cuts shall be limited.
 - 1-06.05 Pedestrian and vehicular traffic shall be separated; walkways shall be provided for access to adjacent properties and between businesses.

Noise:

- 1-06.06 Residential units shall be constructed so that interior noise levels do not exceed an Ldn of 45 dB in any habitable room.
- 1-06.07 The maximum permissible sound pressure level of any continuous, regular, or frequent source of sound produced by any use or activity shall not exceed the following limits at the property line of the sound source:

District	7AM – 10PM	10PM – 7AM
General Business	65	50
Commercial & Industrial	70	55
Multi-Unit & Residential	55	40

Source Pressure Level Limits Measured in dB (A's)

- 1-06.07.01 Sound pressure level shall be measured at all major lot lines, at a height of at least four feet (4') above the ground surface. Noise shall be measured with a sound level meter meeting the standards of the American Standards Institute, ANSI SI.4-1961 "American Standard Specification for General Purpose Sound Level Meters." The instrument shall be set to the A-weighted response scale. Measurements shall be conducted in accordance with ANSI SI.2-1962 "American Standard Meter for the Physical Measurement of Sound".
- 1-06.07.02 Sound levels specified shall not be exceeded for more than 15 minutes in any one day, except for temporary construction or maintenance work, agricultural activity, timber harvesting, traffic, church bells, emergency warning devices, parades, or other special circumstances.
- 1-06.08 No person shall engage in or cause very loud construction activities on a site abutting residential use between the hours of 9 P.M. of one day and 7 A.M. of the following day.
- 1-06.09 Commercial uses shall be designed and operated, and hours of operation limited where appropriate, so that neighboring residents are not exposed to offensive noise, especially from traffic or late-night activity. No amplified music shall be audible to neighboring residents.
- 1-06.10 Common walls between residential and non-residential uses shall be constructed to minimize the transmission of noise and vibration.

Vibration, Smoke, Heat, Glare, and Odor:

- 1-06.11 Vibration shall not be discernible to any human's sense of feeling for three minutes in any one hour for a total of 15 minutes in any one day, or producing an acceleration of more than 0.1 G.
- 1-06.12 Smoke shall not be visible beyond a shade darker than No. 1 on the Ringleman Smoke Chart.
- 1-06.13 Heat and glare shall not be discernible from the outside of any structure.
- 1-06.14 Odor, dust, and fumes shall be effectively confined to the premises or so disposed as to avoid air pollution.

Lighting:

- 1-06.15 All outdoor lighting shall be designed so as not to adversely impact surrounding uses, while also providing a sufficient level of illumination for access and security purposes. Such lighting shall not blink, flash, oscillate or be of unusually high intensity of brightness.
 - 1-06.16 Parking areas shall be illuminated to provide appropriate visibility and security during hours of darkness.
 - 1-06.17 Any outdoor lighting fixture newly installed or replaced shall be shielded so that it does not produce a strong, direct light beyond the property boundaries, and shall be directed toward the object to be illuminated. Light shall be directed away from residences.
 - 1-06.08 Modified set-back: maximum/minimum requirements
 - 1-06.08.01 Within the MXUD front, side and rear setbacks shall be a maximum of no more than the average setbacks of the three adjacent buildings to each side and to the rear, as well as an equivalent number across any contiguous roadway.
 - 1-06.08.02 Frontage requirements shall reflect those of the lots as they exist at the time of adoption of this bylaw.
 - 1-06.09 Residential buildings to be constructed or rehabilitated shall be designed to filter out noise through construction employing, but not limited to, such techniques as applying soundproofing material between dwelling units laterally and vertically, and between different uses; employing staggered joists and insulation.
- Storage:
- 1-06.10 All materials, supplies and equipment shall be stored in accordance with Fire Prevention Standards of the National Board of Fire underwriters and shall be screened from view from public ways and abutting properties.
- Waste Disposal:
- 1-06.11 Waste disposal shall follow State Board of Health regulations.
 - 1-06.12 Storage of waste and waste facilities shall be screened from view from public ways and neighboring properties.
 - 1-06.13 Appropriate provisions shall be made for the disposal of trash, which may include, but shall not be limited to, the provision of trash compactors within the building or on site, as well as a submission of a signed annual contract for rubbish removal.
- Loading/Unloading:
- 1-06.14 The SPGA may require that operations, including loading and unloading shall be limited to weekdays between the hours of 8AM and 7PM only.

1-07.00 Walkways

- 1-07.01 For public convenience a pedestrian and/or bicycle way shall connect various uses and otherwise provide appropriate circulation or continuity to an existing pedestrian or bicycle circulation system. These uses include, but are not limited to residential, parking, transit, bicycling, industrial, recreation, and commercial.
- 1-07.02 Walkways must conform to requirements of the American with Disabilities Act (ADA) and the Massachusetts Architectural Access Board (MAAB).

1-08.00 Vehicular Access, Parking and Loading, and Shared Parking Requirements

- 1-08.01 Minimum number of spaces required for Light Industrial uses are 1/1750 square feet of floor area.
- 1-08.02 Minimum number of spaces required for Office uses are 1/2000 square feet of floor space.
- 1-08.03 Minimum parking space requirement for Retail and Consumer establishments is 1/1000 square feet of floor area.
- 1-08.04 Public Assembly uses minimum parking space requirements equal 1/15 seats.
- 1-08.05 Restaurant, Entertainment and Recreation facilities parking require 1/300 square feet of customer floor area.

- 1-08.06 Minimum off-street parking per dwelling unit shall be .5/unit within 300 feet of the dwelling unit, excluding on-street parking.
- 1-08.07 Parking shall be located to the side or rear of buildings. In no case shall parking be allowed in the planting strip adjacent to the sidewalk or within the front setback of any lot.
- 1-08.08 Parking spaces may be located either on or off the lot. Applicant must show proof of space, its location to the dwelling unit and indicate if the space is owned or leased.
- 1-08.09 Buildings that do not have frontage on a street must provide access for emergency and service vehicles through the layout and design of driveways, interior service roads, or pedestrian and bicycle circulation corridors.
- 1-08.10 Where there is more than one category of use, then the number of spaces required shall be 70% of the sum of required spaces for each category of use.
- 1-08.11 The Planning Board may reduce the number of required parking spaces for the commercial/industrial portion of the building by 50%.
- 1-08.12 Off-street loading requirements are: Light Industrial uses require one bay per every 30,000 square feet of floor area; Residential, Office, Retail, Consumer Service, and Public Assembly uses require one bay per every 50,000 square feet of floor area.
- 1-09.00 Development Standards
 - 1-09.01 Existing buildings shall be used before new construction,
 - 1-09.02 New construction design shall be in harmony with the existing district,
 - 1-09.03 Buildings or structures that are listed or eligible for inclusion on the National Register of Historic Places and/or the Massachusetts Register of Historic Places or within a local historic district as established by M.G.L. Chapter 40C, shall be converted, constructed, reconstructed, restored or altered to maintain or promote the status of the building or structure on, or eligibility for inclusion on the State or National Register of Historic Places.
 - 1-09.03 No new buildings shall be constructed within the MXDV district except by Special Permit upon approval of the Special Permit Granting Authority according to the following criteria:
 - 1-09.03.1 There is no space available in the existing buildings for the proposed use,
 - 1-09.03.2 The proposed use does not exceed the ratios of uses established for the MXDV district as set forth in Section --- of this bylaw,
 - 1-09.03.3 Dwelling units and/or common areas must comply to American Disabilities Act (ADA) Federal and State Standards when applicable.
- 1-10.00 Lighting
 - 1-10.01 Lighting of the site shall be adequate at ground level for the protection and safety of the public in regard to pedestrian and vehicular circulation. The glare from the installation of outdoor lights and illuminated signs shall be contained on the property and shall be shielded from abutting properties. Lighting structures shall be integrated with the site and surrounding uses.
 - 1-10.02 An exterior lighting plan is required including the following items plus any additional information required by the Planning Board if needed to determine compliance with these provisions.
 - 1-10.02.01 A lighting plan showing existing and proposed exterior lighting, including building and ground lighting; locations, supports, mounting heights, and orientation of all luminaires.
 - 1-10.02.02 For all luminaires, descriptions and diagrams of physical configuration and photometric data, such as those available from manufacturers,

indicating fixtures, lamps, reflectors and filters and showing the angle of light cut-off and light distribution patterns.

1-10.02.03 All parking areas and pedestrian facilities serving non-residential uses and open to the general public shall be provided with illumination during all hours from dusk to dawn that those facilities are open to the general public. Such illumination shall provide not less than 0.2 average maintained horizontal foot-candles, and an illumination ratio (brightest/darkest) of not more than 4:1. However, the Planning Board may approve alternative arrangements if it determines that, because of special circumstances or alternative provisions, the specified illumination is not necessary or appropriate for the protection of the public safety.

1-10.02.04 To avoid lighting impacts, outdoor lighting fixtures shall be mounted no higher than fifteen (15) feet, directed inward to the extent feasible, or otherwise oriented and shielded to avoid glare on adjoining premises and plantings or other screening used to block headlight glare from drives and parking lots onto adjacent properties or roadways.

1-11.00 Signs shall conform to the existing bylaws of the community.

1-12.00 Landscaping Requirements

1-12.01 Screening of mechanical equipment, trash, and loading areas shall be provided through the use of walls, fences, and/or dense, evergreen plant materials.

1-12.02 Parking area landscaping.

1-12.02.1 Parking areas shall be screened from adjacent residential uses, streets, and walkways using trees and shrubs adapted to the region, of specimen quality conforming to the American Standard for Nursery Stock, American Standards Institute, Inc., 230 Southern Building, Washington, DC 20005, and shall be planted according to accepted horticultural standards. Berms may be used for screening along the street in conjunction with plant materials.

1-12.02.2 The landscaped perimeter area shall be at least five feet wide.

1-12.02.3 Landscaping shall be provided for interior vehicular use areas to provide visual and climatic relief from broad expanses of pavement and to channelize and define logical areas for pedestrian and vehicular traffic.

1-12.03 The interior parking area shall be landscaped with sufficient shade trees to provide 50% shade within fifteen (15) years of installation.

1-12.04 The use of porous pavement and/or perforated brick or block shall be used to the extent feasible to increase on-site water retention for plant material, groundwater supplies, and to reduce problems associated with runoff.

1-12.05 Completion of the landscaping requirements may be postponed due to seasonal weather conditions for a period not to exceed six (6) months from the time of project completion.

1-13.00 Maintenance of landscaping and screening.

1-13.01 All landscaping and screening shall be maintained by the property owner.

1-13.02 Landscaping and screening plant materials shall not encroach on the public walkways or roadways in a way that impedes pedestrian or vehicular traffic.

1-13.03 Shrubs or trees that die shall be replaced within one growing season.

1-13.04 If the property owner fails to do so, the town reserves the right to maintain the landscaping and screening after notifying the owners, agents, renters, or lessees by certified mail at their last known address or at the subject property address, that it shall be removed or trimmed within seven days of the notice by the City/Town Engineer.

1-13.05 The town shall assess the owners, agents, renters, or lessees for the cost of trimming or removal plus an additional amount of up to 20% of the charges for

administrative costs, to the owner and to the lessee, agent, occupant, or other person in possession and control of the property.

- 1-13.06 If any property owner fails or refuses to pay when due any charge imposed under this section, the City/Town Engineer may, in addition to taking other collection remedies, certify due and unpaid charges, including interest, to the City/Town Treasurer to be levied against the person's property for collection by the county in the same manner as delinquent general taxes upon such property are collected as provided by the City/Town.

1-14.0 Density Regulations

- 1-14.01 The aggregate gross floor area (GFA) shall not exceed the sum of the GFA of all buildings which are existing in the district at the time of passage of this bylaw, plus all buildings which are being constructed or may be constructed pursuant to effective building permits at the time of passage of this bylaw.
- 1-14.02 In addition the cumulative GFA for each group shall not exceed respective amounts as established by the Planning Board with the aid of the Assessor and Building Inspector. The individual group GFAs shall be the sum of all existing and legally permitted proposed construction in each of the use categories of Residential, Commercial, and Light Industrial in accordance with Section 1.04 of this bylaw.

1-15.0 Affordable Housing Bonus

- 1-15.01 At least ten (10%) percent of the total dwelling units in a building shall be designated as affordable housing.
- 1-15.02 The affordable housing units shall include resale, lease or rental controls that will ensure continued affordability by future low and moderate income households. Deed restrictions or similar devices shall be used to limit future sale or rental prices for these purposes.
- 1-15.03 The affordable units may be located in an existing structure if their construction constitutes a net increase in the number of dwelling units in the structure.
- 1-15.04 The affordable units may be located on some other development tract within the MXUD through a special permit from the Special Permitting Authority. The receiving property shall not have more than 20% affordable housing in total as a result.
- 1-15.05 A bonus of 50% additional dwelling units may be awarded if the above criteria are met.

1-16.0 Appearance/Architectural Design

Architectural design shall be compatible with the historic character and scale of building in the neighborhood and the Town of _____ through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques.

- 1-16.01 Variation in detail, form and siting shall be used to provide visual interest and avoid monotony.
- 1-16.02 Proposed buildings shall relate harmoniously to each other with adequate light, air circulation, and separation between buildings. They shall be compatible with the historic character of their context within the MXUD.
- 1-16.03 Existing buildings shall remain compatible with the historic character and scale of contiguous buildings within the MXUD for the purposes of reconstruction or rehabilitation.

REFERENCES:

PVPC, 2000, Model Bylaw: "Development and Performance Standards."

Redondo Beach, CA, 2000, *Article 2 Zoning Districts: Mixed Use and Regional Commercial Zones*.

Methuen Zoning Bylaws: "Mixed Use Developments."

Methuen Zoning Bylaws: "Affordable Housing Density Bonuses."

Andover Zoning Bylaws: "Mixed Use District."

Taunton Zoning Bylaws: "Multi-Family/Business District Regulations."

Fall River Zoning Bylaws: "Mixed Use Business District."

Great Barrington Zoning Bylaw: "Mixed Use."

Seekonk Zoning Bylaws: "Mixed Use Zone."

Ashland Zoning Bylaws: "Mixed Use Special District."

Cambridge Zoning Bylaws: "Mixed Use Development: Cambridge Center."

City of New York Zoning Resolution: "Special Purpose Districts"

Thomas P. Smith, 1988, *The Aesthetics of Parking*, APA, Washington, DC.

Urban Land Institute and National Parking Association, 1981, *The Dimensions of Parking*, ULI, Washington, DC.