

## *MIXED USE ZONES*

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#### **3.13.010. Purpose and Objectives**

It is the purpose and intent of the low intensity mixed use ("MU1") district to provide areas in which a variety of housing types may exist among neighborhood-serving commercial and institutional uses. The MU1 zone shall differ from the MU2 zone by allowing less residential dwelling unit density and by having a more residential style rather than a commercial style. The MU1 zone is intended and therefore shall only be applied to areas that are designated Neighborhood Commercial/Mixed Use on the City's Comprehensive Plan map.

For Infill/Redevelopment Projects (see definitions in Section 2.1) setbacks and buffering are increased as per Section 4.16 Infill/Redevelopment Projects.

#### **3.13.020. Permitted Uses**

- a. Categories.** Those uses or categories as listed herein, and no others, are permitted in the MU1 zone except as otherwise stated.
- b. Permitted Principal Uses.** In the low intensity mixed use (MU1) zone, residential, commercial, and institutional uses may occupy the same building and lot. The permitted uses as defined below are required to be used in a combination of residential and commercial. Each building or project must have a minimum of 30% residential or commercial. The following principal uses and structures, and no others, are permitted in the MU1 zone:

##### **Permitted Uses**

Multiple Family Dwelling (non-dormitory) - up to 16-units per acre  
Membership lodging  
Religious quarters  
Residential facility for elderly persons  
Residential facility for persons with a disability  
Parking lot – automobile parking lot and garages ( this does not include impound yards or long term storage of autos, trucks, boats, vacation trailers, etc.)  
Electric transmission right-of-way (identifies areas where the surface is devoted exclusively to the right-of-way of the activity)

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Gas pipeline right-of-way (identifies areas where the surface is devoted exclusively to the right-of-way of the activity)  
Gas pressure control stations  
Water pipeline right-of-way (identifies areas where the surface is devoted exclusively to the right-of-way of the activity.  
Irrigation distribution channels  
Water pressure control stations and pumping plants  
Water utilities or irrigation company office  
Sewage pipeline right-of-way (identifies areas where surface is devoted exclusively to right-of-way activity)  
Sewage pumping stations  
Refuse disposal company office  
Gas and electric utility company office  
Water and electric utility company office  
Combination utilities right-of-way (identifies areas where surface is devoted exclusively to right-of-way activity)  
Storm drain or right-of-way (predominantly covered pipes or boxes)  
Travel Agencies  
Mail and Phone order houses  
Variety stores  
Merchandise vending machine operators  
Direct selling organization  
Retail trade - general merchandise  
Food stores (groceries, meats and fish, fruits and vegetables, candy, nuts, dairy products, bakeries, etc.)  
Candy, Nut, and Confectionery  
Bakeries and Doughnut Shops  
Miscellaneous retail food establishments  
Apparel and accessories  
Eating places (restaurants)  
Drug and proprietary stores  
Books, stationery, art, and hobby supplies  
Sporting goods, bicycles, and toys  
Jewelry  
Miscellaneous retail stores (includes florists, cigars, newspapers and magazines, photo supplies, pet stores, and other similar retail stores)  
Florists  
Banks, insurance, and real estate (office only)  
Personal services - including photography, beauty and barber services, clothing repair, etc.  
Photographic Services  
Beauty and Barber Shops  
Athletic clubs, body building studios, Spas, aerobic centers, (no gymnasiums)  
Business services (office and retail sales only)  
Professional Services (Except behavior, drug and alcohol treatment; office only)  
Executive, legislative, and judicial functions  
Protective functions and related activities  
Postal services  
Educational services  
Churches, synagogues, temples, and missions  
Other religions activities  
Cultural activities  
Libraries  
Video Rental Shops  
Police Protection and Related Activities, Branch (Office only)

**c. Permitted Accessory Uses.** Accessory uses and structures may be permitted in the MU1 zone, provided they are incidental to, and do not substantially alter, the character of the permitted use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

- i. Accessory buildings such as garages, carports, equipment storage buildings, and supply storage buildings which are customarily used in conjunction with and incidental to a principal use or

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structure permitted in the MU1 zone.

- ii. Storage of materials used for construction of a building, including the contractor's temporary office, provided that such use is on the building site or immediately adjacent thereto and, provided further, that such use shall be permitted only during the construction period and thirty (30) days thereafter, but in no case for a period to exceed one (1) year unless approved by the Building Official.

### **3.13.025. Conditional Uses**

The following uses and structures may be permitted in the MU1 zone only after a Conditional Use Permit has been issued, and subject to the terms and conditions thereof, and must be consistent with the Purpose and Objectives of the MU1 zone. The conditional uses as defined below are required to be used in combination of residential and commercial. Each building or project must have a minimum of 30% residential or commercial and may have as little as 0% residential or commercial with a Conditional Use Permit (CUP).

#### **Conditional Uses**

Multiple Family Dwelling (non-dormitory) - between 17 and 20 units per acre if part of a mixed use building (see Lot Configuration and Density section below)

Dormitory Housing

Paint, Glass, and Wall Paper

Hardware

Swimming Pool Supplies

Shopping Centers (if center is more than 3 acres but less than 5 acres)

Grocery Stores (if center is more than 3 acres but less than 5 acres)

Meats and Fish

Drug and Proprietary Stores

Fruits and Vegetables

Dairy Products

Finance, Insurance and Real Estate Services

Photographic Services

Shoe Repair, Hat Cleaning

Miscellaneous Retail Trade

Police Protection and Related Activities, Branch (office only).

Day Care Centers

Nursery Schools

Dancing Schools

### **3.13.030. Minimum Mixed Use Percentages**

All MU1 projects shall have a residential/commercial mix so that neither the residential or commercial portions of the project shall be less than 30% of the whole. This minimum mix shall be maintained in perpetuity and will be monitored by the Community Development Compliance Officer.

### **3.13.040. Lot Area**

The minimum area of any lot or parcel of land in the MU1 zone is eight thousand (8,000) sq. ft.

### **3.13.050. Lot Width**

The minimum lot width in the MU1 zone is one hundred (100) feet.

### **3.13.060. Lot Depth**

The minimum lot depth in the MU1 zone is one hundred (100) feet.

### **3.13.070. Lot Frontage**

Each lot or parcel of land in the MU1 zone shall abut a public street for a minimum distance of twenty-four (24) feet, on a line parallel to the center line of the street or along the circumference of a cul-de-sac improved to City standards. Frontage on a street end which does not have a cul-de-sac improved to City standards shall not be counted in meeting this requirement.

### **3.13.080. Prior Created Lots**

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Lots or parcels of land which were legally and lawfully created prior to the application of the zone shall be subject to review by the Planning and Zoning Commission and the Rexburg City Council and may be denied a building permit for reason of nonconformance with the parcel requirements of this Chapter.

### 3.13.090. Lot Configuration and Density

Housing unit density of up to 16 units per acre is permitted.

### 3.13.100. Yard Requirement

The following minimum yard requirements shall apply in the MU1 zone:

- a. **Front Yard.** The following are the minimum depth of front yards:
  - i. Minimum 25 feet or,
  - ii. 20 feet for areas of parking lots, if a seven (7) foot landscape strip is located between street curb and sidewalk.
  - iii. 15 feet only for principal buildings, if a seven (7) foot landscape strip is located between the street curb and the sidewalk. Parking and maneuvering areas are not included in this reduction, nor are accessory buildings.
  - iv. 25 Maximum setback, with the following provisions:
    1. Campus development: Interior building constructed as part of a campus development may be set back from the property line more than 20 feet if at least 50 percent of the public street frontage on each block face within the development contains buildings within the maximum setback of 20 feet. Interior buildings set back farther than 20 feet may not be constructed unless and until this 50 percent requirement has been satisfied.
    2. Corner lots have two front yards along public or private roads.
- b. **Rear Yard.** The following are the minimum depth of rear yards:
  - i. Twenty (20) feet when adjacent to an area designated as residential on the Comprehensive Plan Map. Of that required yard, the ten (10) feet adjacent to the residentially designated area must be landscaped and include trees and shrubs.
  - ii. Five (5) feet when adjacent to any area of land that is designated for a non-residential land use on the Comprehensive Plan. For the purposes of administering this section, “Neighborhood Commercial/Mixed-Use” designation on the Comprehensive Plan shall not be considered a residential zone.
- c. **Side Yard.** The side yard setback is zero (0) except as described by the following:
  - i. Minimum side yard when adjacent to a residential zone or area designated for residential use on the City’s comprehensive plan map shall be at least six (6) feet or six (6) inches of setback for every foot of building height, whichever is greater.
  - ii. Minimum side yard of at least ten (10) feet shall be required when an abutting property with an existing building that has windows facing to that side.
  - iii. Minimum side yard of at least 6 (six) feet shall be required when a sloped roof drains toward side yard property line.
- d. **Infill/Redevelopment Setbacks.** Setbacks are increased as per Section 4.16 Infill/Redevelopment Projects.
- e. **Accessory Building Setbacks.** Accessory buildings must meet all setback requirements established by any applicable building code, and shall:
  - i. Have a building footprint and height less than the main dwelling. Accessory buildings larger than two

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- hundred (200) square feet shall meet the same side yard requirements as principal buildings.
- ii. Comply with all lot coverage requirements.
  - iii. Comply with the current Building Code of The City of Rexburg, ID.
  - iv. Only be used for those accessory uses allowed in the respective zone.
  - v. Maintain architecturally similar material and colors with main building.
  - vi. Accessory building shall not be placed in the front yard.
  - vii. Accessory buildings may be placed in any location in the rear yard not otherwise in conflict with this Ordinance, unless the accessory building is a garage with doors opening into the alley. Such garages shall be located at least fifteen (15) feet from the alley.

### 3.13.110. Projections into Yards

- a. **Permitted Projections.** The following structures may be erected on or projected into any required yard, except for a required driveway:
  - i. Fences and walls in conformance with the Rexburg City Code and other City codes and ordinances.
  - ii. Landscape elements including trees, shrubs, turf, and other plant materials.
  - iii. Necessary appurtenances for utility service.
- b. **Permitted Projections with Conditions.** The structures listed below may project into a minimum front or rear yard no more than four (4) feet and into a minimum side yard not more than two (2) feet, except that a required driveway shall remain unobstructed from the ground up a height of twelve (12) feet:
  - i. Cornices, eaves, belt courses, sills, buttresses, or other similar architectural features.
  - i. Fireplace structures and bays provided they are not wider than eight (8) feet and are generally parallel to the wall of which they are a part.
  - ii. Stairways, balconies, door stoops, fire escapes, awnings, and planter boxes or masonry planters not exceeding thirty (30) inches in height.
  - iii. Carports and loading docks in a side yard or rear yard, provided that such a structure is not more than one (1) story in height and is entirely open on at least three (3) sides, except for necessary supporting columns and customary architectural features.
- c. **Box or Bay Windows.** Box or Bay Windows provided they are not wider than eight (8) feet may be projected up to one (1') foot in a front yard and up to two (2') feet in a rear yard. No projection is allowed in a required side yard.

### 3.13.120. Building Height

#### Permitted Heights.

- a. The allowed height is 45 feet, for all buildings. Building height for all uses shall be measured from adjacent grade level to the top of the highest horizontal wall top plate. An unroofed and unenclosed rooftop terrace, an enclosed stairwell or elevator providing access to the roof, shall not be included in the measurement of total building height.
- b. Stealth telecommunication towers are permitted to a height of 75 feet. The Planning and Zoning Commission shall review the design of all proposed stealth telecommunication towers through the conditional use permit process, and provide a recommendation to the City Council. Any proposed tower

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shall also be subject to the City's telecommunications tower ordinance which will require certain setbacks and excluded areas.

- c. Non-stealth telecommunication towers are permitted to a height of 60 feet. The Planning and Zoning Commission shall review the design of all proposed telecommunication towers through the conditional use permit process, and provide a recommendation to the City Council. Any proposed tower shall also be subject to the City's telecommunications tower ordinance which will require certain residential setbacks and excluded areas.

### 3.13.130. Access

Housing projects made up of twelve (12) or more units will be required to demonstrate sidewalk access to the BYUI campus and to the nearest Substantial Commercial Cluster (see definition).

### 3.13.140. Permissible Lot Coverage

- a. **Lot Coverage.** Maximum Lot Coverage is 90%. Lot coverage includes all buildings and structures including areas of hard surface such as sidewalks and driveways. No requirement except as may be dictated by the necessary provision of off-street parking and other applicable requirements.
- b. **Landscaping.** Areas not included in lot coverage calculation shall be maintained in landscaping.

### 3.13.150. Parking and Loading

Each lot or parcel in the MU1 zone shall have, on the same lot or parcel, automobile parking sufficient to meet the requirements as set forth in Chapter 5 Parking Regulation unless otherwise specified below. The following parking guidelines shall apply to the MU1 zone:

#### a. Parking Lot Construction

All parking spaces shall be paved with asphaltic cement or concrete and shall be provided with paved access from a public street. Said spaces shall be provided with adequate drainage which shall not run across a public sidewalk. Parking spaces and maneuvering areas shall not be provided within a required front yard. An effective buffer shall be provided between parking areas for more than five (5) vehicles and existing residential uses, schools, hospitals, nursing homes and other institutions for long-term human care. The buffer shall consist of a minimum five (5) foot wide landscaped strip to be planted with one (1) tree of 2" caliper and five (5) low shrubs per thirty (30) lineal feet.

#### b. Townhouses

Townhouses in the MU1 zone shall have two off-street parking spaces per unit.

#### c. Mixed-Use Buildings and Projects

The total parking requirement shall be the sum of the individual requirements for all uses (see Chapter 5 Parking Regulation). A joint use parking agreement, if executed according to the standards set forth in section D below, would allow a reduction in the total requirement for a mixed-use building or project.

#### d. Joint Use Parking Facilities

Joint use parking facilities are encouraged within 500 feet of residentially zoned property, excluding other MU districts. Uses may provide more than the maximum number of parking spaces if the additional spaces are provided as part of a joint use parking facility. However, if the joint use parking facility is a surface parking lot, the total number of spaces in the surface lot shall not exceed the sum of the maximum spaces allowed for all individual uses sharing the facility. This limit shall not apply to a multilevel parking garage that is used as a joint use facility. Joint use of required parking spaces may occur where two or more uses on the same site or on separate sites are able to share the same parking spaces because their parking demands occur at different times. Joint use of required parking spaces is allowed if the following documentation is submitted in writing to the City as part of a building permit application or site plan review:

1. The names and addresses of the uses and of the owners or tenants that are sharing the parking;
2. The location and number of parking spaces that are being shared;
3. An analysis showing that the peak parking demands for the different uses occur at different times, and that the parking area will supply at least the minimum number of required spaces for each use during its respective peak parking times; and,

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4. A legal instrument such as an easement or deed restriction that guarantees access to the joint parking for all uses.

### e. **Underground Parking Structures**

Underground parking structures are encouraged and must meet the requirements set forth in Chapter 5 Parking Regulation.

**3.13.160. Design Standards** MU1 zones must follow the requirements of Section 4.13 Commercial Design Standards. All development adjacent to the Highway 20 right-of-way must submit a site plan to the Planning and Zoning Commission and be approved by the Commission prior to obtaining a Building Permit.

### 3.13.170. Other Development Standards

- a. **Signs.** All signs erected in the MU1 zone shall be in conformance with the sign provisions of the Rexburg City Sign Code, except for the following: Sign requirements shall apply to the MU1 district, with the following exceptions:
  - i. Pole signs are not allowed;
  - ii. Permitted detached signs shall be monument style and shall be limited to six feet in height.
- b. **Outdoor Storage or Display**
  - i. Outdoor storage or display requires a Conditional Use Permit (CUP).
- c. **Entrances**
  - i. In order to create a pedestrian-oriented environment in which buildings are oriented toward publicly accessible streets and sidewalks, a principal building must have its main entrance from a public sidewalk or plaza or from a private sidewalk or plaza that is publicly accessible through a public use easement. The main entrance shall not be from a parking lot; however, secondary entrances from parking lots are permitted. Interior buildings constructed as part of a campus development are exempt from these requirements.
- d. **Landscaping.** All landscaping in the MU1 zone shall be consistent with landscaping requirements of the Development Code.
- e. **Infill/Redevelopment.** Buffering is required as per Section 4.16 Infill/Redevelopment Projects.
- f. **Trash Storage.** See Rexburg City Code. No trash containment device shall be placed in such a location as to be visible from the public right of way unless in preparation for pickup, and under no circumstance for any period greater than 24 hours prior to and subsequent to the regularly scheduled pickup for trash.
- g. **Walls, Fences, and Gates**
  - i. In order to promote pedestrian-oriented developments, exterior security fences and gates that are located along public streets, along private street or walkways that are publicly accessible through a public use easement, or along publicly accessible open spaces shall not extend beyond the building façades; i.e., these fences shall not be located in the area between building façades and the property line.
  - ii. Fences not exceeding thirty-six (36) inches in height, however, may extend beyond the building facade of attached or detached one- and two-family residential dwellings in mixed-use zoning districts.
  - iii. A vinyl fence of at least six (6) feet in height shall be erected along all property lines which lie adjacent to a residential zone, except front yards, where the height of the fence shall not exceed thirty-six (36) inches. In the case where there is mutual agreement between the property owners of the commercial zone and the adjacent residential zone, the Planning and Zoning Commission shall give

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considerable weight to the wishes of the parties involved. A signed agreement must be submitted to the Planning and Zoning Commission or its designee, indicating the desires of the property owners. In the case where there no agreement can be reached, preference will be given to the vinyl fence.

### **3.13.180. Reversion of Zoning**

After a rezone to the MU1 Zone, an applicant has 24 months to start construction. If unsuccessful, zoning will revert to the zone existing before application for the MU1 zone. Applicant can request an extension to the Planning and Zoning Commission by requesting to meet at a scheduled P&Z meeting.

### **3.13.190. Lighting Standards**

Residential and Commercial Lighting Standards are applicable as described in Chapter 4.14, Supplementary Regulations. Factors such as location of housing (onsite and offsite) and commercial land uses shall direct what standards are applicable.