

MIXED USE ZONES

3.13 Mixed Use (Number Reserved)

3.14 Mixed Use (MU)

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3.14.010. Purpose and Objectives

It is the purpose and intent of the moderate intensity mixed use ("MU") district to provide areas in which a variety of housing types may exist among neighborhood-serving commercial and institutional uses. The MU 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 land that is zoned MU, and is located within the Pedestrian Emphasis Overlay (PEO); less parking and higher density for residential units are allowed as per the definition of the Pedestrian Emphasis Overlay found in Chapter 2.

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

3.14.020. Permitted Uses

- a. Categories.** Those uses or categories as listed herein, and no others, are permitted in the MU zone except as otherwise stated.
- b. Permitted Principal Uses.** In the moderate intensity mixed-use (MU) 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 combination of residential and commercial. Each building or project must have a minimum of 10% residential or commercial (including other uses as approved by the Community Development Director). MU is not allowed as a zone in any property facing Main Street Between the 2nd West and 2nd East. The following principal uses and structures, and no others, are permitted in the MU zone:

Permitted Uses

Multiple Family Dwellings, Apartments, and Dormitory Housing - up to 30-units per acre
 Membership lodging
 Religious quarters
 Residential facility for elderly persons
 Residential facility for persons with a disability
 Residential hotels
 Boarding Houses
 Bed and Breakfast Inn
 Short Term Rental

Bus transportation (Except bus garaging and equipment maintenance)
 Motor vehicle transportation

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Parking lot – automobile parking lot and garages (this does not include impound yards or long term storage of autos, trucks, boats, vacation trailers, etc.)
Bed and Breakfast Inn
Water utilities or irrigation company office
Refuse disposal company office
Gas and electric utility company office
Water and electric utility company office
Travel Agencies
Department stores (includes major and junior chain department stores)
Discount department stores
Surplus stores (inside only)
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.)
Bakeries and Doughnut Shops
Miscellaneous retail food establishments
Apparel and accessories
Furniture, home furnishings, and equipment (no combined warehousing)
Eating places (restaurants)
Drug and proprietary stores
Books, stationery, art, and hobby supplies
Sporting goods, bicycles, and toys
Garden supplies (entirely within a building only)
Jewelry
Ice dealers (automated machines or pick-up stations only)
Miscellaneous retail stores (includes florists, cigars, newspapers and magazines, photo supplies, pet stores, and other similar retail stores)
Florists
Drug and Proprietary Stores
Banks, insurance, and real estate (office only)
Personal services - including photography, beauty and barber services, clothing repair, etc.
Photographic Services
Beauty and Barber Shops
Funeral parlor (mortuary)
Crematory
Pressing, Alteration and Garment Repair (no on-site dry cleaning)
Athletic clubs, body building studios, Spas, aerobic centers, (no gymnasiums)
Business services (office and retail sales only)
Electrical appliance repair and service (no outside storage)
Reupholstering and furniture repair
Locksmiths and key shops
Gunsmiths
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
Religious reading rooms
Other religions activities
Cultural activities
Libraries
Video Rental Shops
Police Protection and Related Activities, Branch (office only)
Hardware
Fruits and Vegetables
Candy, Nut, and Confectionery
Reception Center
Nursery Schools
Day Care Centers
Dancing Schools
Call Centers

- c. **Permitted Accessory Uses.** Accessory uses and structures may be permitted in the MU 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 structure permitted in the MU 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.

3.14.025. Conditional Uses

The following uses and structures may be permitted in the MU 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 MU 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 10% residential or commercial (including other uses as approved by the Community Development Director). When MU is allowed in an area designated on the Preferred Land Use Map as Downtown Commercial Mixed Use, the residential density may be increased to 40 units per acre if approved with a Conditional Use Permit.

Conditional Uses

Heating and plumbing equipment (no outside storage)

Paint, Glass, and Wall Paper

Electrical supplies

Building maintenance

Swimming Pool Supplies

Shopping Centers (if center is more than 5 acres but less than 10 acres) Containing only uses that are listed herein.

Grocery Stores (if center is more than 5 acres but less than 10 acres) Containing only land uses listed herein.

Meats and Fish

Dairy Products

Household Goods Warehousing and Storage

Contract construction services (offices and retail only)

3.14.030. Minimum Mixed Use Percentages

All MU projects shall have a residential/commercial mix (including other uses as approved by the Community Development Director) so that neither the residential or commercial portions of the project shall be less than 10% of the whole. This minimum mix shall be maintained in perpetuity and will be monitored by the Community Development Compliance Officer.

3.14.040. Lot Area

The minimum area of any lot or parcel of land in the MU zone is twelve thousand (12,000) sq. ft.

3.14.050. Lot Width

The minimum lot width in the MU zone is sixty (60) feet.

3.14.060. Lot Depth

The minimum lot depth in the MU zone is sixty (60) feet.

3.14.070. Lot Frontage

Each lot or parcel of land in the MU 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.

3.14.080. Prior Created Lots

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.

3.14.090. Lot Configuration and Density

Housing unit density of up to thirty (30) units per acre is permitted. Housing unit density of up to forty (40) units per acre may be permitted with a CUP.

For land that is located within “Area #1” of the PEO district (see map on page 239), the dwelling unit density shall be allowed to be increased as per Planning and Zoning Commission findings during the required CUP.

3.14.100. Yard Requirement

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

- Front Yard.** The minimum front yard setback shall be zero (0) feet if the following requirements are followed
- a. A minimum 8’ wide sidewalk is required parallel to any city street.
 - b. Street trees and other landscape amenities are required and include as a minimum the use of 2” caliper deciduous trees at a maximum of 20’ spacing in the landscape strip between the curb and sidewalk. The space between the building and sidewalk shall be landscaped with ornamental trees, shrubs, annual and perennial flowers to achieve a “fully landscaped look”. The landscape strip and the front yard setback shall be planted with grass between the trees, shrubs and other landscape features. An irrigation system is required and is the responsibility of the property owner as is the maintenance of the landscaped areas.
 - c. The building shall be oriented toward the street with architecturally defined entrances; a ground floor prominence; and elements that break up vertical and horizontal walls.
 - d. There shall be a variety of openings and other features that enhance the buildings visual interaction with the street. These features include doors, windows, balconies and/or other items such as stoops, awnings, porches, dooryards, canopies, overhangs, recesses, etc. that in combination enhance the human scale and pedestrian experience of the street. Balconies, awnings, canopies and other structural elements may extend a maximum of three (3) feet into the setback.
 - e. The first floor wall facing the right-of-way shall be faced with high quality materials (as approved by Community Development Director or Designee).
 - f. Street lighting and utilities within the right of way must be installed as per the City Engineering Standards.
 - g. Renderings identifying all of the above requirements and the Design Standards shall be provided to city staff prior to the request for a building permit. The Community Development Director or Designee will have authority to review the submittal and determine if it meets the above requirements and spirit in which they were created. At request by applicant the City Staff will have authority to over-rule the findings of the Community Development Director or Designee.

When the above requirements are not met then a front yard setback of ten (10) feet shall be required. The front yard shall be landscaped with ornamental trees, shrubs, annual and perennial flowers to achieve a “fully landscaped look”. The maximum front yard setback shall be ten (10) feet. No part of any building shall overhang the public right-of-way and no drainage shall be diverted into said public right-of-way. Parking spaces, drive aisles, and all maneuvering areas shall not be located within the first ten (10) feet of a front yard. This area shall be used for landscaping that will adequately screen parking areas from adjacent right-of-way.

- a. **Rear Yard.** No requirement. When a building is adjacent to a residential zone or use the building shall match the rear yard requirements of the adjacent residential zone or use. Minimum rear yard of at least 6 (six) feet shall be required when a sloped roof drains toward rear yard property line.
- b. **Side Yard.** There shall be no side yard requirements. When a building is adjacent to a residential zone or use the building shall match the side yard requirements of the adjacent residential zone or use. Minimum side yard of at least 6 (six) feet shall be required when a sloped roof drains toward side yard property line.
- c. **Infill/Redevelopment Setbacks.** Setbacks are increased as per Section 4.16 Infill/Redevelopment Projects.
- d. **Accessory Buildings.** Accessory buildings must meet all fire separation 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 one hundred and twenty (120) square feet require a building permit.
 - ii. Comply with all lot coverage requirements and may not be in the front yard.
 - iii. Comply with the current Building Code 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.

3.14.110. 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.

3.14.120. Building Height

Permitted Heights

- a. The allowed height is 55 feet, for all buildings. Buildings higher than 55 feet may be allowed with a Conditional Use Permit. 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 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.

3.14.130. Access

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

3.14.140. 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.
- b. **Landscaping.** Areas not included in lot coverage calculation shall be maintained in landscaping.

3.14.145. Project Plan Approval

All projects constructed within the MU zone must submit, prior to beginning construction, a site plan (including a drainage plan) for review and approval by City of Rexburg Development Review Committee. Drainage on to an adjacent lot not owned by applicant is not allowed. All structures must comply with Building Department requirements.

3.14.150. Parking and Loading

Each lot or parcel in the MU 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. When possible, connectivity through parking lots of adjacent properties is required. The following parking guidelines shall apply to the MU 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. A six (6) foot high vinyl or masonry fence may be substituted for the landscape strip.

b. Townhouses

Townhouses in the MU 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). 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

Joint use parking facilities are encouraged. 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,
4. A legal instrument such as an easement or deed restriction that guarantees access to the joint parking for all uses.

e. Parking Structures

Parking Structures are encouraged and must meet the requirements set forth in Chapter 5.

3.14.160. Design Standards

MU 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.

3.14.170. Other Development Standards

a. Signs. All signs erected in the MU zone shall be in conformance with the sign provisions of the Rexburg City Sign Code, except for the following:

- i. Sign requirements shall apply to the MU district, with the following exceptions:
 1. Pole signs are not allowed;
 2. 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 MU 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.

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 or masonry 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 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 to have

no fence. In the case where there no agreement can be reached, preference will be given to the construction of a vinyl fence.

3.14.180. Reserved

3.14.190. Lighting Standards

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

