

Schedule A

Town of Penfield Local Law No. 4

Local Law to Amend Penfield Town Code Sections 250-5.12 and 250-2.2 to Revise the Mixed-Use District Regulations and Related Terms Defined

Be it enacted by the Town Board of the Town of Penfield as follows:

Section 1. Intent and Purpose of Local Law

The Town Board determined that the Mixed-Use Development District regulations contained in Section 250-5.12 of the Town Code (“the Code”) and the information and guidance contained in the Mixed-Use Development Manual (“the Manual”) needed to be revised to provide clarity and consistency in the development review process in this district.

The proposed amendment clearly outlines the purpose and intent of the district, delineates the types of uses permitted within the district, establishes requirements for mix of uses within the zone areas, codifies applicable design requirements and preferences, and clarifies the required steps in the review process, including the establishment of the topics and thresholds for which the Planning Board has flexibility in its review of, and decision making for, proposed development projects.

The proposed enhancements to the Code also resulted in the need for revisions to the 2017 “Mixed Use Development Manual.” The updated manual will serve solely as a reference and guidance document. Any development standards and requirements addressed in the revised district regulations have been removed from the manual. The manual has been renamed “2023 Revised Mixed-Use Development Manual.”

Section 2. The Town of Penfield Official Zoning Map shall be amended to replace the zoning district name of “Mixed Use District” with “Mixed-Use Development District.” This revision is reflected in the proposed district regulations contained in Section 3 herein.

Section 3. The existing Section 250-5.12 shall be replaced in its entirety with the regulations contained herein.

§ 250-5.12. Mixed-Use Development District (MUD).

This section of the Town of Penfield Zoning Ordinance applies to properties zoned within the Mixed-Use Development District as depicted on the Town of Penfield Official Zoning Map.

A. Purpose.

- (1) The purpose of the Mixed-Use Development District is to allow for the creation and construction of mixed-use developments within designated areas of the town. All development shall comply with the following 10 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 styles and building types;
- (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 goods and services within walking distance;
- (g) Efficient use of land with compact, clustered development;
- (h) Development that supports public transit where applicable;
- (i) Creation of public and private green space and/or protection of natural features; and
- (j) Transportation planning that encourages multi-modal access.

(2) Mixed-Use Development District Zones. The district is divided into three zones: Zone A, Zone B, and Zone C to allow for development within the district to effectively blend with adjacent zoning districts and existing land development. The map depicting the zone locations is attached hereto, contained in the Mixed-Use Development Manual, and available at the Town's Planning and Engineering Department.

(a) The following outlines the distinctions among the zones:

- [1] Zone A is intended for areas that can support the highest development density and mixture of uses. In this area, vertical mixed-use building(s) and/or connected horizontal mixed-use building(s) are strongly encouraged to establish compact development patterns that create a village-like built environment. This zone has been designated in areas located at, or in close vicinity of, major intersections and along state and county roadways, and/or in proximity to existing development areas with signalized access.
- [2] Zone B is intended to provide a mix of residential building types with compatible non-residential development. It is intended to be a less intense development pattern compared to Zone A, providing a transition between the most intensely compact development areas in the district and the adjacent zoning districts. In this district, the emphasis is on a mix of residential building types.
- [3] Zone C is intended to serve as the residential buffer to Zones A and B and does not permit any non-residential development. To provide a transition to neighboring development and zoning districts, the residential development in this district is limited to single-family development, which may be clustered where appropriate.

(b) For some design requirements, there may be zone-specific standards. Zone-specific development requirements and design standards are specified in the

applicable sections of the district regulations.

- (3) The Mixed-Use Development District regulations are in keeping with the principles and examples outlined in the Town of Penfield's 2023 Revised Mixed-Use Development Manual. The Manual provides context and serves as a guidance document for future development in the district, providing development samples and best practices. In the event of a conflict between the guidance provided in the manual and the regulations contained in this section, the regulations contained in this section shall prevail.
- (4) If any regulations contained elsewhere in Chapter 250 or other applicable sections of Penfield Town Code conflict with the requirements set forth in 250-5.12, the regulations herein shall prevail.

B. Permitted and conditionally permitted uses. The following uses are permitted or conditionally permitted in the Mixed-Use Development District.

(1) Permitted residential uses shall include the following housing types provided below.

- (a) Single-family dwellings
- (b) Two-family dwellings
- (c) Three- and four-family dwellings
- (d) Townhouses / Rowhouses
- (e) Multi-family, Exterior Access
- (f) Multi-family, Interior Access

(2) Permitted non-residential uses shall include the following uses below:

- (a) Office, including, but not limited to:
 - [1] professional
 - [2] medical, dental
 - [3] non-profit
 - [4] executive and/or co-work space
 - [5] other types of office uses
- (b) Retail, including, but not limited to:
 - [1] Grocery and/or convenience stores
 - [2] Drugstores or pharmacies
 - [3] Hardware stores, garden supply stores, and paint and wallpaper stores
 - [4] Flower shops
 - [5] Liquor stores
 - [6] Clothing, shoes and accessories, including consignment (not including pawn shops)
- (c) Service Oriented, including but not limited to:
 - [1] Financial establishments, excluding free-standing ATM building

- (staffed or unstaffed)
 - [2] Bakeries, cafés, coffee shops, ice cream shops
 - [3] Barbershops, hair and nail salons, day spa
 - [4] Acupuncture, massage therapy, tanning salons
- (d) Arts and Recreation; including but not limited to:
- [1] Art galleries
 - [2] Art studio
 - [3] Private gyms and athletic studios up to 5,000 SF (e.g., cross-fit, yoga, pilates, martial arts, and other group classes, etc.)
 - [4] Private sports facilities up to 10,000 SF (e.g., multi-sport complex, indoor pickle-ball courts, tennis clubs, swimming, etc.)
- (e) Municipal uses, including, but not limited to:
- [1] Post offices
 - [2] Police, fire and ambulance stations
 - [3] Town/county/state/federal offices or facilities
- (3) Conditionally Permitted Non-Residential Uses. The following uses are conditionally permitted in the Mixed-Use Development District. Non-residential uses shall be scaled as appropriate to be consistent with the size and location of a specific parcel.
- (a) Service, including, but not limited to, the following:
- [1] Bars, taverns, restaurants, or other dining establishments
 - [2] Hotels and bed-and-breakfast establishments
 - [3] Places of worship
 - [4] Child-care facilities, nursery and preschools, and nonprofit schools
 - [5] Non-residential portion of dwelling units designed to provide live-work space
 - [6] Hospitals and nursing homes and other proprietary healthcare facilities subject to Certificate of Need (CON) through New York State Health Department
 - [7] Laundromat or dry-cleaning establishments
- (b) Arts and Recreation, including, but not limited to, the following:
- [1] Theaters (not including drive-in theaters), and other performance venues
 - [2] Bowling alleys, arcades, and other entertainment venues
 - [3] Museums, art studios, and other cultural
 - [4] Private exercise or athletic facilities exceeding 5,000 SF
 - [5] Private sports facilities exceeding 10,000 SF
- (c) Retail
- [1] Gasoline service and EV charging stations, with or without retail
- (d) Other Conditional Uses. Notwithstanding the requirements set forth in

250-3.1, the board having jurisdiction may consider a conditional use permit for other uses not specifically listed above but determined to have similar intensity of use and be compatible with the purposes of the Mixed-Use Development District. A conditional use permit shall not be issued to any explicitly prohibited use outlined in section 250-5.12(D).

C. Accessory uses.

- (1) Uses that are accessory to an integral part of, and used solely by, the permitted or conditionally permitted use. Types of accessory uses include, but are not limited to, swimming pools and hot tubs, ancillary storage for residential or non-residential uses, parks and recreation facilities, private and public active and passive recreational uses, multi-use trail systems, and residential support uses (such as private meeting rooms, private fitness rooms, on-site leasing or support offices). Accessory uses not provided as examples herein may be determined by the authorized official or board having jurisdiction over the application.

D. Prohibited uses.

- (1) Adult uses and adult entertainment establishments as defined in 250-2.2
- (2) Indoor or outdoor storage businesses, not including storage facilities required as an accessory use
- (3) Auto repair and auto-wash, auto dealers
- (4) Automotive and large equipment sales and leasing
- (5) Industrial uses, laboratory and research facilities, light manufacturing, assembly, and fabrication
- (6) Ground mounted telecommunication towers located on private property
- (7) Cannabis retail dispensary
- (8) Tattoo shops
- (9) CBD, tobacco, and/or vape store
- (10) Firearm and ammunition sales
- (11) Pawn shops and collateral loan brokers (as defined in NYS General Business Law Section 47)

E. Development Requirements and Design Standards

Development requirements and design standards contained in the section provide a framework for development and redevelopment within the district and outline the standards for site and building layout and design. The information contained in the section is also summarized in the Mixed-Use Development Requirements and Design Standards Summary Table provided herein.

During its review, the Planning Board may request an application, or a portion thereof, be referred to the Town's professional design consultants for technical review and advisory recommendations.

- (1) Mixture of uses. Development within this district shall provide a mix of uses

located within the same project site and designed in an integrated manner. Proposed developments must include a mix of permitted residential use(s) and permitted and/or conditionally permitted non-residential use(s). Accessory buildings and land uses shall not be calculated to meet the required non-residential percentage requirements in Zones A and B, unless waiver is granted by the Planning Board, per the requirements in 250-5.12 (D).

- (a) Maximum residential. Maximum residential density is based on the zone in which the units are located as provided below. Density calculations shall be based only on the developable land located within the project site boundary.

- [1] Zone A: Maximum of 20 units per acre
- [2] Zone B: Maximum of 10 units per acre
- [3] Zone C: Maximum of 1 unit per acre

- (b) The percentage of non-residential uses are based on the zone as provided below. Calculations of residential and non-residential square footage shall be based on occupied/habitable space.

- [1] Zone A: Minimum of 20 percent
- [2] Zone B: Minimum of 10 percent
- [3] Zone C: Non-residential uses are not permitted

(2) Dimensional requirements.

- (a) Maximum building height. Notwithstanding the definition of building height as defined in Section 250-2.2, building height as defined within this district shall be measured from a building's grade plane to the top of parapet with flat roof and to the midpoint of a sloped roof. The following maximum heights are set for each zone:

- [1] Zone A: Four stories (60 feet maximum)
- [2] Zone B: Three stories (50 feet maximum)
- [3] Zone C: Two stories (40 feet maximum)

- (b) Variations in building height and /or roof design. When multiple buildings are proposed within a proposed development site, buildings shall be designed with variations in the number of stories and/or roof lines.

- (c) Required setbacks.

- [1] Zone A: Minimum building setbacks shall be required to comply with fire and building codes.
- [2] Zone B: Minimum building setbacks shall be required to comply with fire and building codes. Additionally, a minimum 50-foot setback is required from any parcel line bordering a property

located outside of the Mixed-Use Development District.

- [3] Zone C: Minimum setbacks shall be required to comply with fire and building codes.

(d) Minimum Open Space.

- [1] Minimum of 20 percent of open space (public and private) is required.

(3) Architecture and Building Design.

Building relationships in mixed-use developments are compact and efficient. Plans, facades, and architectural details should create visual interest at the street level. Blank facades should not be visible from streets or public spaces. Buildings should minimize shadowing and visual impacts to adjacent land uses

(a) Building location and orientation.

- [1] Orient buildings along both sides of street frontages so they serve to create enclosure of the sidewalks and public realm to promote outdoor rooms.
- [2] Orient buildings to be in close proximity to public right-of-way and public spaces.
- [3] Locate buildings to create opportunities for usable open space like plazas and other gathering areas.
- [4] Orient sites vertically (vertical mixed-use) within the same building or horizontally in adjacent buildings (horizontal mixed-use).
- [5] Orient buildings to take advantage of natural light and existing views (skylights, view windows, clerestories, light shelves, and controlled lighting).
- [6] Key architectural elements should serve as focal points, and promote wayfinding signage, and sense of place.
- [7] Orient buildings so that entrances are well-defined. Ideally a 'street entrance' would be oriented to the front of the building (street side), and a 'parking entrance' would be oriented to the back of the building (facing the parking lot).
- [8] Provide separate and secure street access to residential units where commercial and residential are mixed.

(b) Building Scale and Massing

[1] Building Scale

- a. Building heights within a site may be higher than surrounding land uses, dependent upon specific characteristics of the development.
- b. Building heights and massing around the perimeter should be considerate of adjacent land uses.

[2] Massing

- a. Dormers, gables, eaves, and other projections may be used to break up architectural masses.
- b. Street-facing building facades shall incorporate ground floor wall plane articulation and a mix of color and materials to break massing and create visual diversity.
- c. Proportion, scale, materials, and color should be used to manage visual mass and bulk.
- d. Canopies, arcades, and galleries may be used to break masses and create visual interest along ground floor commercial.
- e. Building corners can be defined by unique architectural elements to serve as focal points (e.g., towers, columns, porticos, etc.)

(c) Building Facade Design.

[1] Any building facade facing a sidewalk, street, or open space shall have an active building elevation. Active building elevations shall include fenestration (windows, doors, openings) and other architectural features. Building facades shall not contain blank areas that exceed 25 lineal feet.

- a. Zone A: The length of a building facade shall not exceed 80 feet before the building plane is interrupted with a recess/projection and vertical elevation change. Recesses/projection and vertical elevation changes shall be at least 8 inches and shall be reinforced by material changes. Recesses/projections shall extend a minimum of 8 feet in length. The total maximum length of a building elevation shall not exceed 260 feet.
- b. Zone B: The length of a building facade shall not exceed 40 feet before the building plane is interrupted with a recess/projection and elevation change.

Recesses/projection and elevation changes shall be 8 inches minimum and shall be reinforced by material changes. Recess/projections shall extend a minimum of 8 feet in length. The total maximum length of a building elevation shall not exceed 140 feet.

- c. While there are no building square footage size limitations, the following maximum square footage of an individual non-residential occupancy is provided to guide the Planning Board in its review of proposed development.
 - Zone A: Individual non-residential spaces/occupancies shall not exceed 25,000 square feet.
 - Zone B: Individual non-residential spaces/occupancies shall not exceed 7,500 square feet.

(d) Accessory structure design. For single-family, two-family, townhomes and rowhouses, detached accessory structures, such as swimming pools, hot tubs, sheds, sports structures, and similar shall be subject to the following limits:

- a. They must be accessory to a principal use, on the same lot as the structure or on common land owned by a Homeowners' Association or other development entity.
- b. Only one of each accessory type permitted per dwelling unit.
- c. Total square footage of the accessory structures shall not exceed 25 percent of the total lot size.

[2] For all other uses, accessory structures shall be consolidated to the greatest extent practicable and located in a way that minimizes their visual impact on the overall development and neighboring properties.

[3] Accessory structures shall be located on the same parcel as the building they are intended to serve.

(4) Pedestrian and bicycle amenities.

(a) Sidewalk and trail design

[1] Sidewalks adjacent to interior roads and areas for parking shall be at least 8 feet wide and constructed of concrete.

[2] All other sidewalks shall be at least 5 feet wide and constructed of concrete.

[3] Trails shall be at least 12 feet wide and constructed of asphalt.

- (b) 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.
- (c) Clear and direct routes from on-site parking to a building entry and public sidewalk system shall be provided. Crosswalks through parking areas shall be designed to enhance visibility of the pathways and the pedestrians using them.
- (d) Non-residential development located along road frontages shall provide sidewalk access.
- (e) All mixed-use developments shall comply with the dimensional requirements for sidewalks that are set forth in 4(a)[1] and [2] above.
- (f) All mixed-use developments shall designate and design multi-use walkways and trails in accordance with 4(a)[3] above.
- (g) Outdoor bicycle parking or indoor bicycle storage shall be provided for each occupied building on site, except for single-family, two-family and townhomes where garages are provided. Bicycle racks shall be located close to building entrances and adjacent to public plazas and other public gathering areas.

(5) Parking.

- (a) Shared parking is required within all mixed-use developments. The minimum number of parking spaces for a mixed-use development will be evaluated independently based on site plan and the nature of uses within the development. In instances when the proposed parking has been identified as a concern, the Planning Board may require the applicant to submit a parking study that utilizes the methodology of the Urban Land Institute (ULI) Shared Parking Report or Institute of Transportation Engineers (ITE) Shared Parking Guidelines.
- (b) Parking lots shall be located and buffered in order to reduce visual impacts. Parking lots should be arranged behind buildings whenever possible.
- (c) On-street parking shall be permitted and encouraged along new roads within the proposed mixed-use development.
- (d) Adjacent properties abutting the Mixed-Use Development District shall be adequately screened from parking structures and lots.

- (e) Parking provided to the general public shall be designated and clearly marked to the extent practicable.
 - (f) The size and number of accessible parking spaces for each development shall meet the New York State Building Code and federal standards, as amended or changed. In any case where the requirements conflict, the more restrictive standard shall apply.
 - (g) Private parking spaces, garages, or other covered parking spaces shall be provided for single-family detached or semi-detached, townhouses, or other similar housing. Visitor parking shall be included as shared parking with other adjacent land uses.
 - (h) Parking layout shall demonstrate adequate snow storage to the satisfaction of the Town Engineer and provide for snow removal when necessary. Rows of parking shall incorporate islands with shade trees and/or plantings at least every (20) parking spaces.
- (6) Open Spaces, public and private.

Vibrant mixed-use developments require a balance between the built environment and open spaces available for enjoyment of residents, employees, visitors and users. The differentiation between public and private open spaces is outlined in the definitions contained in Section 250-2.2 (see Open Space, Private and Open Space, Public).

The amount of open space required for an overall project may vary based on the proposed development's building designs, site layout and intended uses.

- (a) General open space provisions that apply to all open space are as follows:
 - [1] Public open space must be included in the site design to ensure sufficient access for community members who do not live or work within the development.
 - [2] Lawns, planted areas and hardscaped areas along private drives may be calculated as open space.
 - [3] The following may not be calculated as open space:
 - a. Greenspaces or landscaped areas in dedicated road rights-of-way
 - b. landscaped islands in parking lots
 - [4] Stormwater facilities may be calculated as open space if the Planning Board determines they are connected, provide pedestrian amenities, and are designed to serve as a visual feature.
 - [5] Public space shall be provided adjacent to habitable/occupied structures and be accessible via clearly defined connections.

- [6] The proposed site plan shall clearly delineate between public space and private open space.
- [7] Orient public open spaces along primary circulation paths (vehicular and pedestrian), and at intersections, whenever possible.
- [8] Integrate public open space with adjacent commercial spaces whenever possible.
- [9] Publicly accessible buildings may not be calculated as public open space.
- [10] Play areas, playgrounds and other recreational spaces and equipment are encouraged near proposed residential development.

(b) Private open space.

- [1] Any private open space provided in a proposed development shall be clearly labeled as such on the final approved plans.
- [2] Outdoor spaces designed for use and enjoyment exclusively by the residents or occupants of a proposed development shall be adequately identified for users through signage, fencing or other design features.

(7) Landscaping.

All development within this district requires a landscape plan depicting the number, type and configuration of landscaping elements, including, but not limited to lawns, plantings and hardscape features. The proposed features shall conform to the Town of Penfield's Design and Construction Specifications and adequately provide the green space needed to balance the site plan as determined by the Planning Board and/or the Town's landscape consultant.

- (a) The level of landscape and hardscape detail should reflect the unique character of each mixed-use development. Plantings should provide visual interest throughout all four seasons to sustain a vibrant, appealing landscape. Landscape design should consider the scale and mass of a building and its relationship to the street and neighboring properties.
- (b) Landscape design shall include native plantings found in upstate New York. Plantings shall be low maintenance and suitable for the four-season climate.
- (c) Mature trees shall be preserved and integrated into the project design unless proven to be unfeasible.
- (d) The Town may refer the review of landscape plan to the Town's landscape consultant.

- (e) All plantings along plowed or salted roads and trails shall be salt resistant species.
 - (f) Landscape features shall be maintained in perpetuity, unless removal is approved by the Town. The maintenance of landscape features shall be included in the Property Maintenance Agreement.
- (8) Site furnishings.
- (a) Site furnishings, such as benches, bike racks, fencing, decorative water features, banners, sculptural elements, and similar elements should be included in every proposed development.
 - (b) Site Furnishing Implementation.
 - [1] Site furnishings shall be clearly labeled on the site plans for each development.
 - [2] All street furniture, including, but not limited to, benches, bollards, and waste receptacles, should be consistent and complementary with the architectural style and scale of the buildings that are part of the proposed development.
 - [3] Decorative trash and recycling receptacles should be provided in the publicly accessible areas adjacent to non-residential portions of the development.
 - [4] Benches and informal seating areas shall be located adjacent to trails and sidewalks, unless provided near recreational open space or facilities.
 - [5] All outdoor seating areas shall leave at least five (5) feet of unobstructed pedestrian space.
 - [6] Graffiti and skateboard resistant design elements and materials shall be used to reduce the potential for vandalism.
 - [7] Areas designated for pet use shall be equipped with complementary amenities (e.g., disposable bag dispenser and refuse containers).
- (9) Lighting.
- (a) All site plan applications shall include a lighting and photometric plan for review and approval.
 - (b) Site lighting shall be complementary for each parcel within the development.
 - (c) Lighting fixtures shall be coordinated to provide a consistent design. Free-standing light poles shall be no more than 16 feet in height as measured from ground level to the top of fixture and be located and shielded to prevent glare on any adjacent sites.

- (d) Parking lot lighting shall be dark-sky compliant. Decorative building lighting and landscape lighting are encouraged if the proposed design will not adversely impact residences in the development or adjacent properties.
- (e) Street lighting at the intersections of public rights-of-way shall be provided in accordance with existing Town of Penfield's Design and Construction Specifications and exempted from the 16-foot height limit.
- (f) Pedestrian-scaled lighting shall be provided on sidewalks, trails and gathering areas located near occupied buildings within the proposed development.
- (g) Lighting design shall consider adjacent developments to encourage compatible design elements and improve visual transition from one development to the next.
- (h) The following attributes shall be included:
 - [1] In lower density development areas within the district and areas adjacent to parcels outside of the Mixed-Use Development District, lighting plans shall include a schedule for light dimming and utilize low power luminaries. The final approved plan shall include the approved hours of operation for light fixtures.
 - [2] Manage light pollution by installing cut-off light fixtures that direct light down.
 - [3] Include lighting along roadways and within mixed-use developments for safety and security.
 - [4] Pole lighting design should be based on the intent of nearby uses within the development.
 - [5] Use LED light sources, to the greatest extent possible, throughout developments.

(10) Signage.

Although the scale of development within this district may vary, the Town of Penfield encourages each developed project area and future redevelopment to include attractive, high-quality signage. To the extent practicable, cohesive, complementary signage design should be encouraged to enhance the aesthetic appeal of the district.

- (a) The Planning Board has the discretion to review proposed signage associated with each development application. Notwithstanding the requirements of Town Code Section 250-10, the following standards shall apply within this district:

- [1] Any new development or significant redevelopment requires a separate submission containing a detailed sign package showing all site and building mounted signage associated with the proposed development.
 - [2] Free-standing and building mounted signs should complement the aesthetic theme of the building(s) and/or use(s).
 - [3] The size, graphics, font(s) and color selection(s) should maximize readability and minimize visual clutter. The following standards shall apply.
 - a. Free-standing signage shall be no more than 20 feet in height and monument style. All monument signs shall be landscaped.
 - b. Free-standing signage located near roadways shall be located to reduce sight-distance conflicts.
 - c. Tenant identification signs shall be consistent in color, size and font and shall be designed to provide for future replacement without leaving damage to the signage substrate.
 - [4] Where deemed appropriate, lit signs should be well designed and fit the aesthetic of the development. Lighting shall be high-efficiency, dark sky compliant and installed with timers, if required in the Town's approval. Wall-mounted signage for multi-tenant buildings should minimize visual clutter through consolidated signage or individual signs that are sized and spaced consistently along the building face. The use of building sign bands, that are integral with the architecture, to organize multiple tenant's signage is encouraged.
- (b) Signage mounted inside windows shall not block the view into or out of the interior space and shall not exceed 25 percent of the window glazing.
 - (c) The number of for sale, for lease and similar vacancy signage shall be limited to one free standing sign per development entrance, with maximum of 32 square feet. Tenant space window signage shall be subject to the limits set forth above in 250-5.12(F)(9)(b).
 - (d) The following signs are prohibited in this district.
 - [1] Billboards, ground mounted or building mounted

- [2] Free-standing and exterior-mounted digital signs
- [3] Signs with flashing or moving light or lights
- [4] Any sign not associated with the development

(11) Universal Design. The Town encourages buildings and outdoor spaces to incorporate universal design elements to enhance accessibility and use.

(12) Loading, Storage, and Trash Disposal.

- (a) All loading areas and loading docks shall be located to the side and rear of buildings. Outdoor storage or display of materials is not permitted overnight.
- (b) Trash disposal areas shall be located within buildings or within an opaque screened area that hides the trash receptacle(s) and is located to the side or rear of a building.
- (c) Trash receptacles, loading areas, and mechanical equipment shall be located away from public spaces and screened by architectural building features, fencing, and landscaping to minimize negative impacts.
- (d) Bins for trash and recycling shall be shared among users to minimize the number of enclosures throughout the development.

F. Hours of operation.

Business establishments within the Mixed-Use Development District shall be permitted to operate from 6:00 a.m. to 12:00 midnight on a daily basis. Based on the intensity of use and its potential impact on the neighboring area, the Town may modify the hours of operation as part of the process of granting a conditional use permit.

Mixed-Use Development Requirements and Design Standards Summary Table

Requirements	Zone A – Core Mixed-use	Zone B – Residential Mixed-use	Zone C – Residential Buffer
Percentage of Non-Residential Development Required	A minimum of 20% of habitable/occupied square footage shall be non-residential permitted or conditionally permitted uses.	A minimum of 10% of habitable/occupied square footage shall be non-residential permitted or conditionally permitted uses.	Not applicable. Non-Residential permitted or conditionally permitted uses are prohibited.
Residential Dwelling Units (DU) Density	Maximum 20 units per acre	10 units per acre	1 unit per acre, clustering encouraged
Minimum Open Space	20%	20%	Not applicable
Maximum Non-Residential Occupancy Size	25,000 square feet per use/occupancy	7,500 square feet per use/occupancy	Not applicable
Maximum Building Height	Four (4) stories or 60 ft.	Three (3) stories or 50 ft.	Two (2) stories or 40 ft.
Setbacks	Minimum building setbacks required to meet fire and building codes	Minimum building setbacks required to meet fire and building codes	Minimum building setbacks required to meet fire and building codes
Landscape Buffer	No landscape buffer required.	Minimum 50-foot landscape buffer from adjacent residential land uses	No landscape buffer required.
Parking Requirements	Shared parking required; on-street parking permitted	Shared parking required; on-street parking permitted	Off-street parking (i.e., driveway) adjacent to dwelling

G. Application Review and Approval Process

- (1) New Development or Significant Redevelopment. The Planning Board has purview over any applications for subdivision of land, site plan review and/or revised site plan review. The following outlines the required steps in the application process. During its review, the Planning Board may request an application, or a portion thereof, be referred to the Town's professional design consultants for technical review and advisory recommendations.
 - (a) Pre-Application Meeting. Prior to submitting any application to the Planning Board, applicants/developers shall meet with the planning and engineering department staff to evaluate the proposed development to ensure conformance with applicable district regulations. Upon the determination that the proposed development can meet the district's requirements and design standards, staff will provide applicants with the necessary application instructions and forms.
 - (b) Concept Review. Applicants may request a conceptual review with the Planning Board prior to preparing sketch plan application. This optional review is intended to be a resource for applicants to refine concepts prior to sketch plan application submissions. The review of, and discussion about, an applicant's concept would occur during Planning Board work session meetings. The Planning Board would provide informal feedback; no formal action will be taken in response to a concept review.
 - (c) Sketch Plan Application. A sketch plan application is a required step in Planning Board review process for all new developments. Applicants shall submit their applications with conceptual site plans and building designs. The sketch plan applications are subject to public hearings to receive community feedback on the proposed development. Comments and feedback from the sketch plan meeting will be captured in a formal memo to the applicant.
 - (d) Preliminary/Final Site Plan and/or Subdivision of Land Application. The final step in the review process is a preliminary/final site plan application, which may also include a subdivision or re-subdivision of properties, if needed. Building on the feedback and guidance provided in the sketch plan phase, applicants shall prepare their submission(s) with the necessary forms and engineered plans as required in the site plan and subdivision standards set forth in Chapter 250 of the Penfield Town Code. Drawings and plans shall conform to the Town's Design and Construction Specifications, as amended or changed.
 - (e) Conditional Uses. The Planning Board issues any conditional use permits required within a proposed development as part of the site plan review process.

(2) Change of use. For existing structures located within the Mixed-Use Development District, the following outlines the regulations for changes in use, occupancy, operation, or ownership.

(a) Administrative Staff Review and Approval.

[1] Eligibility. Applications shall be reviewed and approved by town staff in the Building and Zoning Department when at least one of the conditions below have been met.

- a. In-kind changes in use (new occupancy is proposed in space previously occupied by similar occupancy or operation).
- b. Changes in use that do not alter the intensity of land use or parking requirements as determined by the Code Enforcement Official.
- c. Existing building or tenant space is changing ownership and/or operator. The requirement for a new fire safety inspection will be determined as part of the administrative review.
- d. Replacement of existing signage that is consistent in type and design as previously approved building mounted and/or free-standing signage.

[2] Application for change of use shall be submitted to the Town Building Department.

(b) Board Approval Required.

[1] The Planning Board shall be responsible for reviewing all applications for subdivision of land, site plan, revised site plan, and all signage applications not eligible for administrative review as described in 250-5.12(G)(a)(1)(d.) above. Initial Conditional Use Permit applications also require Planning Board approval.

[2] The Zoning Board of Appeals shall be responsible for reviewing subsequent Conditional Use Permit applications proposed in existing buildings located in this district.

H. Planning Board Waiver.

(1) The regulations in this district were created to encourage high-quality, well configured developments. In the review process, there may be occasions when flexibility in the development requirements and design standards is needed to achieve a better development. To that end, the Planning Board has the ability to waive requirements for specified project elements, as described herein. As part of its waiver review, the Planning Board must consider, and include in its evaluation,

the following:

- (a) Impact to the character of the proposed development site and adjacent properties;
 - (b) The scale or extent of waiver being requested as part of the application;
 - (c) Impact on physical or environmental conditions;
 - (d) The impact on the project's overall viability or success; and
 - (e) The likelihood the project can proceed without the granting of the requested waiver(s).
- (2) Any requests for Planning Board waiver must be expressly addressed in the application utilizing the forms and/or process prescribed by the Town.
- (3) In considering requests for waiver, the Planning Board may require an applicant to provide market studies, connectivity analysis, assessment of existing and planned development within the district, and/or other supplemental information to support the request.
- (4) The following waivers may be considered by the Planning Board for the categories and thresholds provided below.
- (a) Building heights – The Planning Board may consider buildings that exceed the maximum height for the applicable zone, but not the maximum number of stories.
 - (b) Setbacks and buffer – Any adjustments may be considered by the Planning Board, if they serve the overall project design and adequately buffer adjacent land uses. Minimum fire separations required by NYS Uniform Code must be maintained, unless a New York State variance is granted.
 - (c) Mix of uses – Minimum percentage requirements for non-residential as follows:
 - [1] Zone A: Up to 5 percent of the required non-residential square footage may be calculated using proposed “Residential Support Uses,” such as clubhouses, residential community rooms, community kitchen and dining areas, fitness rooms, and leasing offices. Hallways, lobbies, mechanical rooms, storage spaces and similar are not considered residential support uses.
 - [2] Zone B: Up to 2.5 percent of the required non-residential square footage may be calculated using proposed “Residential Support Uses,” such as clubhouses, residential community rooms,

community kitchen and dining areas, fitness rooms, and leasing offices. Hallways, lobbies, mechanical rooms, storage spaces and similar are not considered residential support uses.

- (d) Maximum non-residential occupancy – Maximum non-residential square footage for medical, institutional and/or municipal uses in Zones A and B, may be exceeded.
- (e) Building Facade Design – The facade design requirements may be waived if the Planning Board determines the applicant’s building design sufficiently meets the spirit of the district and incorporates materials and design elements that create an attractive visual effect.
- (f) Open space – if the Board finds that the proposed design provides adequate open space areas to support the proposed uses on site.
- (g) Bicycle storage for each building – if the Board finds that sufficient bike parking is provided on the overall site.
- (h) Sidewalk and trail design requirements – variation may be permitted in areas located outside of dedicated rights-of-way, if the applicant’s submission demonstrates sufficient, effectively designed, pedestrian connections.
- (i) Number and Design of Parking Spaces – if the applicant’s submission demonstrates that proposed parking is adequate for the development.
- (j) Lighting – Deviations from the lighting regulations when the overall design of the plan would be enhanced or in cases where state or federal standards dictate lighting requirements for a specific use or user (e.g. banks).
- (k) Signage – The Planning Board may consider changes in height, size or location of signs. Waiver may not be granted to approve any signs that are prohibited.
- (l) Drive-thru lanes – Drive-thru lanes may be permitted during the site plan review process if the applicant demonstrates it is required for successful business operation or to meet industry standards. Drive-thru lanes shall be oriented to the rear or side of buildings. Efforts must be made for the design to diminish potential vehicular pedestrian conflicts. The design should diminish negative impacts upon the public realm of street frontages.

(m) Hours of Operation – Hours may be adjusted as long as they conform with applicable state and county limits, if any apply.

(n) Zone Boundaries – Any adjustment may be considered by the Planning Board if:

- [1] The proposed changes serve the overall project design and meet the goals of the district and intended purpose of the respective zone(s);
- [2] Provide adequate buffer to adjacent land uses;
- [3] The proposed boundary change shall result in similar distribution of zone percentages;
- [4] The applicant’s requested changes only apply to properties actively under review; and
- [5] The request does not create or add new zones to the parcel(s) under review.

(5) Unless eligible for waiver and approved during the site plan review process, as expressly provided for in Section 250-5.12 (I)(1), projects shall conform with the development requirements and design standards unless the application receives the necessary variances(s) from the Zoning Board of Appeals.

(a) Any Planning Board application requiring a variance application to the Zoning Board of Appeals, the Planning Board shall provide a memo to the Zoning Board of Appeals outlining any issues or concerns that should be considered.

I. Easements and land use restrictions.

(1) The following easements shall be reviewed by the Town of Penfield and filed with Monroe County Clerk’s Office.

- (a) Continuation of trails where they leave the property shall be provided and filed with the Monroe County Clerk’s Office.
- (b) Cross-access between adjacent uses and properties as depicted on approved plans.
- (c) Shared parking as depicted on approved plans.
- (d) All town dedicated facilities as required by the Town Engineer and/or Town Attorney.
- (e) Any other required town easements associated with an approved development.

(2) When required by the Planning Board as part of the site plan approval for a

specified development project, designated public space and open space shown on an approved plan shall be deed restricted from future subdivision and development and filed with Monroe County. If demolition and reconstruction of an entire existing development is proposed, the deed restriction may be removed upon the written approval by the Penfield Town Board and necessary filings by the Town Attorney.

J. Transportation Improvement District.

In addition to any transportation mitigation required through State Environmental Quality Review Act, applicants shall comply with the requirements of any future transportation overlay district(s) created by the Town of Penfield once adopted.

Section 4. Chapter 250, Article II, Terms Defined shall be amended to include the following new or revised definitions:

Building Height

~~The vertical distance measured from grade level to the highest point on the roof.~~

The vertical distance from a building's grade plane to the highest roof surface.

Certificate of Need (CON)

A New York State Department of Health review process, mandated under state law, that governs the establishment, ownership, construction, renovation and change in service of specific types of health care facilities, including, but not limited to, hospitals, nursing homes, diagnostic and treatment centers, birth centers, ambulatory surgical centers, hospices, adult care facilities and long-term home health care programs.

Grade Plane, Building's

The average finished ground level around the perimeter of a building measured at all building corners.

Green Space

An area of grass, trees and/or other vegetation.

Healthcare Facility

A hospital, clinic or and other facility as defined in Article 28 of the Public Health Law, provided that the facility possesses a valid operating permit from the State Commissioner of Health.

Mixed-Use Building

A building containing residential and non-residential uses located within the same building.

Mixed-Use, Horizontal

A mix of residential and non-residential uses adjacent to each other within the same building or in separate buildings located on the same lot, connected by pedestrian connections and shared parking areas.

Mixed-Use, Vertical

A multi-story building with non-residential use on the ground floor and residential or office use(s) on upper floor(s).

Multi-Family Exterior Access

Any building, or portion thereof, containing three or more dwelling units, excluding rowhouses, in which primary access to the dwelling units is made from the building's exterior walls.

Multi-Family Interior Access

Any building, or portion thereof, containing three or more dwelling units, excluding rowhouses, in which primary access to the dwelling units is made from an interior hallway or other shared space of the building.

Multi-Modal Access

Physical design of transportation systems and elements that promotes the safe and accessible use by pedestrians, bicyclists, motorists and public transit users.

Non-Residential Use

Any building occupancy (or portion thereof) that does not include a residential dwelling.

Nursing Facility

All facilities as defined in Article 28 of the Public Health Law, provided that the facility possesses a valid operating permit from the State Commissioner of Health.

Open Space, Private

Private and semi-private outdoor spaces, including decks, patios, front and rear yards, that are not intended for the enjoyment or use of the public.

Open Space, Public

Outdoor greenspace, landscaping and hardscaped areas including trails but excluding sidewalks, tree lawns, and other green space located in a right-of-way.

Residential Use

Any structure, or portion thereof, containing residential dwelling unit(s) as defined in the NYS Uniform Code, as amended or changed.

Single-Family Dwelling

Any building that contains one dwelling unit, as defined by NYS Uniform Code, that is occupied for living purposes.

Two-Family Dwellings

Any building that contains two dwelling units, as defined by NYS Uniform Code, that is occupied for living purposes.

Townhome

Three or more single-family dwelling units constructed in a group of attached units in which each unit extends from the foundation to the roof, has open space on at least two sides, and has a separate means of egress. Each unit is located on a separate parcel.

Rowhouse

Any building including three or more attached side-by-side dwelling units in which the dwelling unit shares a roofline, has open space on at least two sides, with each unit having a separate means of egress.

Section 5. Classification of districts. Section 250-3.2 shall be amended to add “Mixed-Use Development District” to the list of zoning districts.

Section 6. Severability. If any part or provision of this local law is judged invalid by any court of competent jurisdiction, such judgment shall be confined in application to the part or provision directly upon which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Law or the application thereof to other persons or circumstances. The Town hereby declares that it would have enacted the remainder of this Law even without such part or provision or application.

Section 7. Effective Date. This local law shall take effect immediately upon approval by the Town Board and the New York State Secretary of State.