

Schedule A

Town of Penfield Draft Local Law # ____

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 in order 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 options;
 - (c) Areas that are safe, comfortable, and convenient for pedestrians;

- (d) Flexibility in the siting and design to support future changes in land use;
 - (e) Walkability within neighborhoods with walkways and trails that encourage pedestrian and bicycle travel;
 - (f) Variety of services within walking distance;
 - (g) Efficient use of land with compact, clustered development;
 - (h) Development that supports public transit where applicable;
 - (i) Open space preservation and/or creation and protection of natural resources; 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. For some design requirements, there may zone-specific standards. The regulations set forth herein apply throughout the district, unless requirements are specified for individual zones.
- (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 examples 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.

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

- (1) Permitted residential uses shall include the following housing types provided below.
- (a) Single-family dwelling
 - (b) Two-family dwelling
 - (c) Townhouses / Rowhaouses
 - (d) Multi-family
- (2) Permitted non-residential uses shall include the following uses below:
- (a) Professional, medical, dental, non-profit and other types of office uses
 - (b) Financial establishments, excluding free-standing ATM building (staffed or unstaffed)
 - (c) Grocery stores
 - (d) Laundromat or dry-cleaning establishments
 - (e) Bakeries, cafés, coffee shops, ice cream shops
 - (f) Drugstores or pharmacies
 - (g) Hardware stores, garden supply stores, and paint and wallpaper stores
 - (h) Barber and beauty shops
 - (i) Flower shops
 - (j) Liquor stores
 - (k) Retail stores, outlets, and department stores
 - (l) Art galleries and studios
 - (m) Municipal uses, including, but not limited to, post offices, police stations

and town/county/state/federal offices or facilities

C. Conditionally permitted non-residential uses.

- (1) 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) Bar, tavern, restaurant, or other dining establishment
 - (b) Hotels and bed-and-breakfast establishments
 - (c) Places of worship
 - (d) Child-care facilities and nonprofit schools.
 - (e) Theaters (not including drive-in theaters)
 - (f) Bowling alleys, arcades, and other entertainment establishments
 - (g) Private exercise or sports facilities
 - (h) Gasoline service station
 - (i) Hospitals and nursing homes or other long-term care facilities
 - (j) 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 be similar in nature and 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(H).

D. 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.

E. 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) Pawn shops and collateral loan brokers (as defined in NYS General Business Law Section 47)

F. 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 comment.

- (1) Mixture of uses.
 - (a) Development within this district shall provide a mix of uses located within the same project site and designed in an integrated manner. Permitted and conditionally permitted uses shall be designated one of the following categories.
 - [1] Residential, Single-Family
 - [2] Residential, Two-Family Dwellings
 - [3] Residential, Townhomes or Rowhouses
 - [4] Residential, Multi-family
 - [5] Non-residential Retail
 - [6] Non-residential Office
 - [7] Non-residential Nursing and/or Healthcare Facilities
 - [8] Non-residential Service
 - [9] Non-residential Eating Establishments
 - [10] Non-residential Municipal / Civic Uses
 - (b) Uses are classified by the type of occupancy within the proposed project site. Separate buildings or spaces containing the same occupancy type are counted as one use type, regardless of the number of buildings or spaces on the site.
 - (c) The minimum number of uses is based upon the size of the development, as follows.
 - [1] Zone A
 - a. Less than 3 acres: Minimum of two uses, with one residential and one non-residential
 - b. 3 acres to 6 acres: Minimum of four uses, with at least two residential uses and two non-residential uses

- c. More than 6 acres: Minimum of five uses, with at least three residential uses and two non-residential uses
 - [2] Zone B
 - a. Less than 1 acre: minimum of two uses, with one residential and one non-residential
 - b. 1 to 3 acres: Minimum of two uses, with two residential and one non-residential
 - c. 3 acres to 6 acres: Minimum of two residential uses, with at least one non-residential use
 - d. More than 6 acres: Minimum of three residential uses, with at least one non-residential
 - [3] Zone C
 - a. Single-family or two-family dwellings
- (d) The percentage of non-residential uses are based on the zone as provided below.
 - [1] Zone A: Minimum of 20%
 - [2] Zone B: Minimum of 10%;
 - [3] Zone C: Non-residential uses are not permitted
- (e) 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
- (f) Accessory structure design.
 - [1] 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 principle 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% 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.

a. Accessory structures should be located on the same parcel as the building they are intended to serve.

(2) Dimensional requirements.

(a) Building height.

[1] Zone A: Four stories (55 feet maximum)

[2] Zone B: Three stories (45 feet maximum)

[3] Zone C: Two stories (35 feet maximum)

(b) 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.

(3) 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) Shared parking spaces for residential units shall be located within a maximum of 300 feet of dwelling unit entrances that are being served by those spaces.

(c) Parking lots shall be located and buffered in order to reduce visual impacts. Parking lots should be arranged behind buildings whenever possible.

(d) On-street parking shall be permitted and encouraged along new roads within the proposed mixed-use development.

- (e) Adjacent properties abutting the Mixed-Use Development District shall be adequately screened from parking structures and lots.
- (f) Parking provided to the general public shall be designated and clearly marked to the extent practicable.
- (g) 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.
- (h) 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.
- (i) 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.

(4) Pedestrian and bicycle amenities.

- (a) Sidewalks shall be installed along all roads both public and private, and shall connect to front building entrances, parking areas, central open space, and other pedestrian destinations. Sidewalks shall also be included to connect common areas, parking areas, open space, and recreational facilities within the mixed-use development.
- (b) Clear and direct routes from on-site parking to a building entry and public sidewalk system shall be provided. Crosswalks through parking areas should be designed to enhance visibility of the pathways and the pedestrians using them.
- (c) Non-residential development located along road frontages shall provide sidewalk access.
- (d) All mixed-use developments shall comply with the dimensional requirements for sidewalks that are set forth in the table below.
- (e) All mixed-use developments shall designate and design multi-use walkways and trails in accordance with the table below.
- (f) 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.

Sidewalk and Walkway Table:

| PATH TYPE | MINIMUM WIDTH (in feet) | MATERIAL |
|----------------------|--------------------------------|-----------------|
| Sidewalks | | |
| On-Street | 8 | Concrete |
| Internal connections | 5 | Concrete |
| Abutting to parking | 7 | Concrete |
| Trails | | |
| Primary | 12 | Asphalt |
| Secondary | 10 | Asphalt |

(5) 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 provisions that apply to all open space are as follows.

- [1] No portion of any road right-of-way area may be used for calculating the minimum required amount of total open space.
- [2] Public space shall be provided adjacent to habitable/occupied structures and be accessible via clearly defined connections.
- [3] The proposed site plan shall clearly delineate between public space and private space.
- [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] Orient public open spaces along primary circulation paths (vehicular and pedestrian), and at intersections, whenever possible.
- [6] Integrate public open space with adjacent commercial spaces whenever possible.

(b) Public open space.

- [1] Each development shall contain a minimum of 20 percent public open space.

- [2] Publicly accessible buildings may not be used for calculating the minimum required amount of public open space.
- (c) 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] Play areas, playgrounds and other recreational spaces and equipment are encouraged near proposed residential development.
- [3] Public space 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.

(6) 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 should include native plantings found in upstate New York. Plantings should 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.

(7) Site furnishings.

- (a) Site furnishings, such as benches, bike racks, fencing, decorative water features, banners, sculptural elements, decorative lighting and bollards, 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, lighting, 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).

(8) Lighting.

- (a) All site plan applications shall include a lighting and photometric plan for review and approval. Site lighting shall be complementary for each parcel within the development. The lighting shall be designed to ensure appropriate light levels for pedestrian walks and parking lots.
- (b) 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.
- (c) 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.

- (d) Street lighting along publicly accessible rights-of-way shall be provided in accordance with existing Town of Penfield's Design and Construction Specifications.
- (e) Sidewalks, walkways, and pedestrian gathering spaces within mixed-use developments should be lit for safety and aesthetics.
- (f) Lighting design shall consider adjacent developments to encourage compatible design elements and improve visual transition from one development to the next.
- (g) The following attributes should 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 where possible throughout developments.

(9) 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 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

(10) Architecture.

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] Locate buildings to create opportunities for usable open space like plazas and gathering areas.
- [3] Orient sites vertically within the same building or horizontally in adjacent buildings.
- [4] Orient buildings to relate to public spaces and public right-of-way.
- [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 should 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, such as towers, to serve as focal points

(c) Building Façade Design.

- [1] Any building facade facing a sidewalk, street, or open space district 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 façade 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 16 inches 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 240 feet.
 - b. Zone B: The length of a building façade 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 16 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 120 feet.
- [2] While there are no building square footage size limitations, the following maximum square footage of non-residential occupancy is provided to guide the Planning Board in its review of proposed development.
 - a. Zone A: Individual non-residential spaces/occupancies shall not exceed 25,000 square feet

- b. Zone B: Individual non-residential spaces/occupancies shall not exceed 7,500 square feet

- (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.

Mixed-Use Development Requirements and Design Standards Summary Table

| Requirements | Zone A – Core Mixed-use | Zone B – Residential Mixed-use | Zone C – Residential Buffer |
|---|---|--|---|
| Minimum Number and/or Types of Uses | <p><u>Less than 3 acres:</u> Minimum of two uses, with one residential and one non-residential</p> <p><u>3 acres to 6 acres:</u> Minimum of four uses, with at least two residential uses and two non-residential uses</p> <p><u>More than 6 acres:</u> Minimum of five uses, with at least three residential uses and two non-residential uses</p> | <p><u>Less than 1 acre:</u> minimum of two uses, with one residential and one non-residential</p> <p><u>1 to 3 acres:</u> Minimum of two uses, with two residential and one non-residential</p> <p><u>3 acres to 6 acres:</u> Minimum of two residential uses, with at least one non-residential use</p> <p><u>More than 6 acres:</u> Minimum of three residential uses, with at least one non-residential</p> | <p><u>Lot size varies:</u> Single-family dwelling</p> |
| 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. |
| Maximum Building Height | Four (4) stories or 55 ft. | Three (3) stories or 45 ft. | Two (2) stories or 35 ft. |
| Minimum Public Open Spaces | 20% | 20% | Not applicable |
| 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 |
| Residential Dwelling Units (DU) Density | Maximum 20 units per acre | 6-10 units per acre | 1 unit per acre; Maximum 2 units per acre |
| 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 |
| Maximum Non-Residential Occupancy Size | 25,000 square feet per use/occupancy | 7,500 square feet per use/occupancy | Not applicable |
| Landscape Buffer | No landscape buffer required. | Minimum 50-foot landscape buffer from adjacent residential land uses | No landscape buffer required. |

G. 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.

H. 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.
 - (a) Pre-Application Meeting. Prior to submitting any application, applicants/developers shall meet with the planning department staff to evaluate the proposed development for any immediate feedback or recommendations. Staff will provide applicants with the required application instructions and forms.
 - (b) Sketch plan. A sketch plan application is the first phase of review conducted by the Planning Board for all new developments. Applicants will present conceptual site plans and building designs to the board, at a regularly scheduled meeting, for its review. Residents of the community will have an opportunity to speak to the application in the public hearing.
 - (c) Preliminary/Final Site Plan and/or Subdivision of Land. The Planning Board's second step in the review process is a preliminary/final site plan application. This can also include a subdivision or re-subdivision of properties. Applicants shall prepare an application with the necessary forms and engineered plans pursuant to standards set forth in Chapter 250 of the Penfield Town Code and the Town's Design and Construction Specifications, as amended or changed.
 - (d) 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] Planning Board shall be responsible for reviewing all applications for subdivision of land, site plan, and revised site plan. Initial Conditional Use Permit applications and signage applications also require Planning Board review.

[2] Zoning Board of Appeals shall be responsible for reviewing subsequent Conditional Use Permit applications proposed in existing buildings located in this district. Any replacement signage not eligible for administrative review as described above in 250-5.12(H)(2)(a)[1]d.

I. Planning Board Waivers.

(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 may be needed to achieve a better development. To that end, the Planning Board has waiver power related to specified project elements, as described herein. In contemplating application of any waiver, 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(s) being requested as part of the application;
- (c) Impact on physical or environmental conditions;

- (d) The waiver(s)' 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) 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) Number and Design of Parking Spaces – if the applicant's submission demonstrates that proposed parking is adequate for the development.
 - (e) Bicycle storage for each building – if the Board finds that sufficient bike parking is provided on the overall site.
 - (f) 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).
 - (g) 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.

- (h) Building Façade Design – The façade design requirements may be waived if the Planning Board determines the applicant’s building design sufficiently meets the spirit of the district and uses materials and design elements that create an attractive visual effect.
 - (i) Drive-thru Lanes – Drive-thru lanes may be permitted during the site plan review process if applicant demonstrates it is required for business operation or to meet industry standards. Drive-thru lanes should 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.
 - (j) Hours of Operation – Hours may be adjusted as long as they conform with applicable state and county limits, if any apply.
 - (k) Zone Boundaries – Any adjustment may be considered by the Planning Board if:
 - [1] They serve the overall project design
 - [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
 - [5] The request does not create or add new zones to the parcel(s) under review.
- (3) Any waiver(s) sought for a proposed application must be expressly addressed in the application to the Town, utilizing the forms and/or process determined by the Town.
- (4) Unless eligible and approved for waiver 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.

J. 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.

Section 2. 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.

Grade Plane, Building's

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

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 on 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-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.

Non-Residential, Eating Establishments

Any building or tenant space used for the preparation and service of food and drink, including take-out restaurants.

Non-Residential Office

Any building or tenant space used for professional, medical, dental, legal, non-profit and other types of offices that do not provide overnight service or care.

Non-Residential Retail

Any building or tenant space used for the sale of goods and products.

Non-Residential, Service

Any building or tenant space used for the delivery of services, including but not limited to hair salons, nail salons, aestheticians, pet grooming, laundry and dry-cleaning, and other similar uses.

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, 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.

Residential, Single-Family Dwelling

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

Residential, Two-Family Dwellings

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

Residential, 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.

Residential, Rowhouse

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

Residential, Multi-Family

Any building, or portion thereof, containing three or more dwelling units, excluding rowhouses.

Section 4. Classification of districts. Section 250-3.2 shall be amended to add “Mixed-Use Development District” to the list of zoning districts.

Section 5. 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 6. Effective Date. This local law shall take effect immediately upon approval by the Town Board and the New York State Secretary of State.