

## CHAPTER 280. ZONING

### AMEND CHAPTER 280 OF THE TOWN CODE BY ADDING A NEW ARTICLE ENTITLED, MU1 - MIXED-USE DISTRICT 1, AS FOLLOWS:

#### Section 280-x1. Purpose/Intent

- A. One of the purposes of this Zoning District is to ensure a vibrant and successful business, retail, and service economy in areas of the Town of Hamburg that have higher residential density so that many of the shopping, dining, personal service, and entertainment needs of residents can be satisfied in proximity. This will better support businesses and increase safety and security in the Town of Hamburg and provide a more sustainable environment.
- B. Another purpose of this Mixed-Use District is to revitalize underused existing structures or unoccupied buildings by encouraging the occupation of portions of existing buildings by residential users and the re-development of commercial businesses.
- C. It is the overall intent of this district to allow the Town and property owners/businesses to develop mixed use structures and properties to better meet the needs of the community in accordance with the Town's Comprehensive Plan.

#### Section 280-x2. Required Process

- A. The Mixed-Use District 1 is a floating zone (a zoning district that is created, but then only attached to a property through a specific rezoning process), that can be applied to properties through a rezoning process, or the Town Board can apply this district to areas of the Town in accordance with the Town's Comprehensive Plan. For the application process, the applicant shall submit a rezoning application, a conceptual plan of development for the property to be rezoned, and appropriate SEQR information. If the Town Board finds the application in accordance with the intent of this district and Comprehensive Plan, the Town Board will begin the rezoning process by referring it to the Planning Board in accordance with Article XLVIII of the Town Zoning Code. The final approved Plan will represent the approved uses for the site.
- B. When the Town Board initiates rezoning of properties to this zoning district in accordance with the Town's Comprehensive Plan, when an applicant seeks to move forward with an application to develop these properties, a conceptual plan must first be submitted to the Town Board for their concurrence that the application meets the intent of the district. Once satisfied, the Town Board will send the application (site plan application) to the Planning Board for site plan review and potential approval.
- C. If after a MU1- Mixed-Use District 1 zone is established, and the owner wishes to change the plan or change or add additional uses, a new rezoning application would need to be submitted, following the same procedure noted in paragraph A. above.
- D. Upon approval of a Mixed-Use zoning designation, the project will need to obtain Site Plan approval, prior to any construction or building permit being issued.

#### Section 280-x3. Permitted Uses

- A. Permitted uses. Multiple uses are permitted on each lot. The following uses are permitted in the Mixed-Use Zones:
  - 1) Retail store.
  - 2) Business and professional offices
  - 3) Personal service establishments, including but not limited to barbershops,

beauty parlors, electronics/computer cleaning or repair, glass shops and small appliance repair.

- 4) Restaurant; bar; or social club.
- 5) Residential Uses as allowed in R-1, R-2 and R-3 districts
- 6) Parking as an accessory-use to a principal building. Parking shall be subject to the applicable laws and codes of the Town of Hamburg including but not limited to subsections (B)(4), (5) and (6) of this chapter.
- 7) Religious institution.
- 8) Municipal office.
- 9) Parks, limited to passive outdoor recreation.
- 10) Indoor fitness centers, athletic fields and recreation centers.

The following is a list of uses that may also be permitted at the discretion of the Town Board in conjunction with any request to rezone to the Mixed-Use District or with conceptual plan review described in Section 280-x2 B.:

- 1) Adult-care or assisted living facility.
- 2) Hotel or Bed-and-breakfast.
- 3) Community center.
- 4) Day-care center and nursery school.
- 5) Community gardens.
- 6) Laundromat/dry cleaner.
- 7) Hospital (Urgent Care Facility).
- 8) Funeral home.
- 9) Public utility station.
- 10) Home office or occupation provided that said occupation is not an industrial use permitted in M2 or M3 zones.
- 11) School.
- 12) Outdoor fitness centers, athletic fields and recreation centers.
- 13) Parks and other outdoor recreation (other than parks limited to passive outdoor recreation).
- 14) Other commercial, recreational, or residential uses not listed in subsection
- 15) Other uses not stated above but not prohibited by section 280-160 of this code will be approved only upon the finding by the Town Board (with Planning Board input) that such uses are compatible with those permitted and which will not be detrimental to other uses within the district or to adjoining land uses.

#### Section 280-x4. Prohibited Uses.

The following uses are expressly prohibited in Mixed-Use Zones:

- A. Auto sales or service.
- B. Landfills.
- C. Any outdoor storage, other than enclosed dumpsters with proper screening identified on the site plan and approved by the planning board.
- D. Manufactured or mobile home parks.
- E. Outdoor solid-fuel-burning furnaces
- F. Truck terminals, dispatch, and transfer.

- G. Lumberyards and coal yards.
- H. Railroad freight yards.
- I. Concrete products manufacture: concrete or cement mixing plants.
- J. Asphalt plants.
- K. Storage or manufacture of petroleum and petroleum products.
- L. Manufacturing of abrasives.
- M. Automobile assembly and fabrication.
- N. Manufacture of heavy machinery.
- O. Processing or treatment of bituminous products.
- P. Metal casting and foundry products.
- Q. Any use permitted in a M3 or M2 district under the Town of Hamburg Zoning Code not specifically identified above.

#### Section 280- x5. Bulk Requirements

- A. Lot area. Lot area will be based on the size of the building, parking requirements and landscaping.
- B. Lot width at the building line: 75 feet.
- C. Lot Coverage: maximum 85%
- D. Setbacks: dependent on adjoining uses and the approved plan.
- E. There will be no minimum front setback and new structures should be constructed abutting the front walkway or as close as possible, except:
  - 1) Existing structures in the style of residential houses, regardless of current use, shall have and maintain a front yard setback from the front lot line to the structure's original building front line.
  - 2) An additional front setback may be allowed when an area immediately in front of the principal building is intended for an outdoor eating/drinking area or for a display or activity related directly to the occupancy of the principal building.
  - 3) A setback to allow parking in front of the principal building is expressly prohibited.

#### Section 280-x6. Off-street Parking and Signs

- A. Parking is not a permitted use and may only be constructed as an accessory use to a principal building. Parking, if any, shall be located entirely behind the principal building. No parking shall front on any street.
- B. Re-development of existing commercial developments using existing parking lots shall be allowed utilizing parking along the street front if the following conditions are met:
  - 1) A 10-foot-wide area of vegetation/pervious area is developed between the edge of the right-of-way along the street and the parking area. A portion of this buffer zone may be impervious surface if it is intended for an outdoor eating/drinking area or for a display or activity related directly to the occupancy of the principal building that the parking area is associated with
  - 2) Appropriate vegetative screening or other aesthetic improvements are made to the 10-foot-wide area of frontage.
- C. The number of required parking spaces shall be determined by the Planning

Board and incorporated into the Town Board's approval of the rezoning in accordance with the Town's zoning regulations.

- D. Signs. For applicable general sign regulations, see Article XXXVI. The approved plan, set under the rezoning process, will officially set the specific sign requirements (compatible with the area).

#### Section 280-x7. Development standards.

- A. Developments can be single building on an individual or multiple parcels, or multiple buildings on individual or multiple parcels.
- B. All developments in a MU1 - Mixed-Use zone shall be subject to the following standards:
  - 1) All development shall be serviced by public water and sewer.
  - 2) No uses shall occupy more than 85% of the usable land on any parcel zoned MU1- Mixed-Use District. Residential uses can include a mixture of two-family units and multiple-family dwellings. The ratio of each residential use shall be determined by the Town Board through the rezoning process. These limitations shall not apply to buildings that are greater than 67% vacant and are located on existing lots that currently (at the time of this law adoption) occupy more than 85% of the usable land.
- C. Drive-throughs are prohibited except when allowed through the rezoning process and under the following conditions:
  - 1) Only one drive-through lane per building lot.
  - 2) Drive-throughs shall not be located in front of the principal building.
  - 3) Drive-throughs are permitted only on lots where at least 10 motor vehicles can be stacked on the lot and separate from the parking circulation while waiting for service at the drive-through.
- D. Residential and commercial uses may be located on any floor of a principal building. It is encouraged that retail and other permitted commercial uses be located on ground floors.
- E. New buildings or additions to existing structures that are over 3 stories tall will be considered in the rezoning process but will be dependent upon the character of the area and adjacent uses. New buildings or additions to existing structures that are over 6 stories tall will typically not be allowed unless for extenuating circumstances.
- F. Minimum clear-glass area. To ensure a sense of uniformity and create a visually appealing area, at least 75% of the first floor of the front of the principal building shall be clear glass. This 75% requirement can be modified during the rezoning process if the project contains other aesthetic features that enhance the visual impact and match the character of the surrounding area.
- G. Principal buildings shall have and maintain the main entrance to the building on the front of the building. Rear and/or side entrances are permitted but shall not be the primary entrance.
- H. Lots abutting residential districts shall:
  - 1) Maintain adequate screening (either solid fencing or live, healthy vegetation) of at least five feet in height.
  - 2) Direct all illumination away from the adjoining residential district.
  - 3) Maintain a minimum yard of 20 feet (side and/or rear) adjoining the residential district.

- I. It is encouraged that all additions and/or improvements to existing structures be of the same architectural style, use the same type of materials, be of the same height and width, and have the same window and door orientation as the original structure.

#### Section 280-x8. Other Requirements

- A. Landscaping shall be integrated into the development plan and the streetscape.
- B. Pedestrian accessibility and connectivity shall be incorporated into the plan.
- C. Incorporation of green infrastructure, Electric Vehicle charging stations, bike racks, and other sustainable designs are strongly encouraged.