

## Chapter 37

### Mixed Use Commercial Zoning District

The Mixed-Use Commercial Zoning District (MUCZD) contains lands generally 150' south of Marshall Avenue in The Designated Growth Center as shown on the Official Zoning Map.

#### 37.1 Purpose – Boundaries – Permitted Uses

**37.1.1 What are the boundaries of the MUCZD?** The boundaries of the Mixed-Use Commercial Zoning District are shown on the official zoning map that accompanies this bylaw.

**37.1.2 What is the purpose of the MUCZD?** Located between the Form-Based Code Overlay District and Interstate 89, the MUCZD will serve as a transitional area where existing commercial activity can remain in an automobile-oriented, less design-conscious layout than that contained within the Form-Based Code Overlay District

**37.1.3 What uses are permitted in the MUCZD?** See Table 37.A. and WDB 37.1.3.1-5.

37.1.3.1 Allowed and prohibited uses are described in Table 37.A Retailing will be limited to uses that ordinarily require considerable space relative to the volume of sales and uses and that rely on outdoor sales and storage. Table 37.A imposes broad limits on retailing by type, but this purpose statement and the standards adopted below also limit the type of retailing that is appropriate in this zoning district. The retail uses that are permitted here must not detract from the concentration of pedestrian-oriented retailing in the TCFBC.

Other Uses. Beyond retail, a wide variety of uses are permitted by Table 37.A, all subject to standards that will, over time, add visual diversity and interest and make the area friendlier to pedestrians. This variety does not extend, however, to truly industrial uses.

37.1.3.3 Outdoor Sales and Storage. An important distinction between this and the adjoining commercial zoning districts is that outdoor sales and outdoor storage will be permitted.

37.1.3.4 Residential Uses. Residential uses encouraged. They should have a minimum density of 5 dwelling units per acre, an average density of 7.5 dwelling units per acre, and a maximum of 15 dwelling units per acre.

37.1.3.5 Light Industrial and Warehousing Uses. Industrial uses that do not generate large volumes of truck or vehicular traffic may be permitted in existing buildings that have been designed and built for these purposes. WDB 37.6 and 37.7 set standards for such uses. New buildings for industrial and/or warehousing uses are not permitted, and existing buildings not currently designed for these uses are not permitted.

37.1.3.5 Accessory Uses. Customary accessory uses and structures are permitted in all zoning districts, as provided by Chapter 17 of this bylaw.

**37.2 Permits.** Permit requirements are explained in Chapters 4-6 of this bylaw. With the minor exceptions noted there, all development in this zoning district will require a discretionary permit before an administrative permit can be approved.

**37.3 Standards** Development standards are contained in 37.3.1 through 37.7.2.3.

**37.3.1 What dimensional standards apply in this zoning district?**

37.3.1.1 Is there a maximum building height? Building height is limited to 36 feet, except where the incentives of WDB 37.5.4 apply.

37.3.1.2 Are there property line setbacks? Setbacks from rear and side property lines in this zoning district are controlled by the landscaped buffer requirements of Chapter 23 of this bylaw.

37.3.1.3 Are there setbacks from roads? Yes. The minimum setbacks from roads in this zoning district shall be:

from the right-of-way of I-89, 150 feet;

from the right-of-way of any other road, 25 feet.

37.3.1.4 Use of Required Setbacks. The required setbacks must be landscaped in compliance with Chapter 23 of this bylaw. Access drives, roads, pedestrian ways, underground utility lines, and where such lines are permitted, overhead utility lines may cross required setbacks at a right angle ( $\pm 10^\circ$ ). Pedestrian ways may also run parallel to and within a required setback. Parking and loading areas may not be placed within required setbacks.

37.3.1.5 Lot Size and Dimensions.

Lot Size. There is no minimum lot size in this zoning district.

Frontage. All lots must have at least 40 feet of frontage on an existing or proposed public or private road. The DRB may require a greater frontage where necessary to provide safe access to the lot.

**37.3.2 Do the general standards of this bylaw apply to development in this zoning district?** Yes. Development in this zoning district must, unless specifically exempted, comply with all standards established in this bylaw.

**37.3.3 Are there additional standards specific to this zoning district?** Yes. They are presented in the following sections.

**37.4. Outdoor Sales and Storage**

**37.4.1 Are outdoor sales permitted?** Outdoor sales are permitted in this zoning district, but only within areas designated for that purpose on the approved plan. Outdoor sales outside designated areas are a violation of this bylaw, subject to enforcement as provided in WDB 7.4-7.6.

37.4.1.1 Buffers and Setbacks. Outdoor sales areas must not be within the landscaped buffers required by WDB 37.3.1.2 and Chapter 23 or within the setbacks established by WDB 37.3.1.3.

37.4.1.2 Buffer from Sidewalk. Outdoor sales areas must be separated from sidewalks or recreation paths by a landscaped buffer of at least six (6) feet.

37.4.1.3 Internal Landscaping. Outdoor sales areas that contain more than 4,000 square feet of paving must comply with the landscaping requirements for parking areas established in Chapter 23.

**37.4.2 *Is outdoor storage permitted?*** Outdoor storage is permitted in this zoning district, but only within side and rear yards that are designated for that purpose on an approved site plan. Outdoor storage outside designated areas is a violation of this bylaw, subject to enforcement as provided by WDB 7.4-7.6.

37.4.2.1 Buffering and Setbacks. Outdoor storage areas must be buffered from all adjoining properties and public ways as required by Chapter 23 of this bylaw.

37.4.2.2 Screening. Screening fences or walls, which shall be located on the interior side of the buffer required by WDB 37.4.2.1, may be required by the DRB. Where such a requirement is imposed, the screening shall be an architectural extension of the building, with the same colors and detailing.

37.4.2.3 Temporary Storage. Temporary outdoor storage of construction equipment and materials is permitted in compliance with Chapter 17 of this bylaw.

**37.5 Development Pattern.** There are currently a number of large, monolithic, single-story buildings in this zoning district, most of which have long dead walls and are surrounded by large expanses of pavement. These buildings will not be considered non-conforming so that they may be adapted to other uses, but the existing pattern will not be repeated in new development, which must comply with the following standards. Major additions to existing buildings must also comply with these standards to the extent determined to be feasible by the DRB.

**37.5.1 *How will development be made more pedestrian-friendly?*** Buildings must invite pedestrians in, rather than being isolated from the street and sidewalk.

37.5.1.1 Pedestrian Connections. There must be a direct pedestrian connection between the principal building entrance/s and the sidewalk/s or path/s along the adjoining street/s. This is in contrast to the current situation in which the connection from the parking area is the principal connection.

37.5.1.2 Building Line to Street. New buildings must come to the setback from the street. This means that parking and outdoor sales must move to the side and/or rear of the building or, in the case of parking, into a structure. An exception of up to 30% of a building's frontage may be made for an entry plaza or courtyard. The DRB may also permit an exception for accessible parking.

37.5.1.3 No Dead Walls. Dead walls are permitted in the rear of buildings to provide service and storage space. Other walls must be animated by clearly-demarcated entrances; functional windows, including display windows; architectural detailing; and signs. The DRB may allow an exception where a side wall does not face a street, pedestrian way, or customer parking area.

**What is a Dead Wall?** A dead wall is any uniform blank wall that is 29 or more feet long.

### ***37.5.2 How will buildings be made more appealing?***

37.5.2.1 Building Mass. Apparent building mass must be broken up using clearly demarked doors and windows, including display windows; variations in the building footprint; and architectural detailing, including changes in materials, patterns, textures, and color. Landscaping may also be used to reinforce changes in massing. Changes in massing should not be merely cosmetic but should correspond to the arrangement of internal space in the building.

37.5.2.2 Building Facades. Building facades must feature:

a clearly distinguished foundation or base;

a clearly distinguished top, which may be a parapet or cornice (it must be architectural, not just paint) or, preferably, a sloping roof; and

a clearly defined sign band or other set locations for signs.

37.5.2.3 Side and Rear Walls. The use of inferior materials for the sides or rear of a building is not permitted.

***37.5.3 What other design elements are required?*** New development in the MUCZD must offer at least three of the following elements: These elements may be provided cumulatively, in or accessory to, multiple buildings that are part of a single development proposal.

37.5.3.1 ... mixed commercial uses of varied sizes, including uses in two or more major (two-digit) NAICS classifications and excepting accessory uses, like incidental retail sales associated with a service business, and including uses that vary in floor area by more than 20%;

37.5.3.2 ... a “wrap” of smaller shops around at least one street facing side of any retail space of more than 20,000 square feet;

37.5.3.3 ... lodging (a hotel) and/or residential uses, including affordable dwelling units;

37.5.3.4 ... structured parking that provides 30% or greater of the required parking;

37.5.3.5 ... multiple stories, and not just the appearance of multiple stories;

37.5.3.6 ... wide sidewalks that may be used for outdoor dining and/or with seating that encourages outdoor social interaction;

37.5.3.7 ... on-site renewable energy generation (solar panels or geo-thermal) generating 25% or more of the estimated energy demand of the development; and/or

37.5.3.8 ... an urban park, as defined in the *Open Space Plan*. Credit for compliance will be provided only where a proposed park is visible and accessible to the public so that it complements other proposed uses. A picnic table for employee lunch breaks is not an urban park.

**37.5.4 *Is there an incentive for performance?*** Yes. The height limit will be increased from 36 to 52 feet where perpetually affordable housing and/or structured parking are provided. To qualify, the development must create more than three (3) dwelling units, of which 30% or greater are perpetually affordable, and/or providing 30% or greater of its parking requirement in a structure, resulting in a commensurate reduction in surface parking and loading areas.

**37.5.5 *Are there any limits on the use of the incentive offered by 37.5.4?*** Yes. It is not the intent of the building height incentive to permit the construction of four or five story buildings with flat roofs. This incentive is intended to make it possible to build three or, depending on the grade of the site, four story buildings that have diverse, attractive sloping rooflines. Buildings with flat roofs are limited to 36 feet in height.

## **37.6 Industrial Uses.**

**37.6.1 *Are “light” industrial uses permitted in the MUCZD?*** Table 37.A permits manufacturing uses in existing buildings, but only in compliance with WDB 37.6.2. New industrial buildings will not be permitted in this zoning district, except where they are consistent with an approved specific plan.

### **37.6.2 *What standards apply to industrial uses in the MUCZD?***

37.6.2.1 Outdoor Sales and Storage are strictly limited. See WDB 37.4.

37.6.2.2 Suitability of Buildings and Property. Industrial uses shall only be allowed in existing and approved buildings on sites that have already been designed for and are suitable for industrial uses. Suitable buildings would have such design features as loading docks and site configurations that can accommodate truck traffic and truck turning movements.

37.6.2.3 Environmental Impacts. Proposed industrial uses must not require permits from the State of Vermont for discharges to the air or water, or use hazardous materials in quantities that would trigger WDB 18.5.3’s requirement for a Hazardous Materials Management Plan, with the exception of a stormwater discharge permit.

37.6.2.4 Compatibility with Permitted Uses. Industrial uses may be permitted in existing and approved buildings in the MUCZD only where their impacts on the environment, the town’s infrastructure, and neighboring land uses are determined to be compatible with each other.

## **37.7 Wholesale Trade, Warehousing and Distribution.**

**37.7.1 *Are wholesale trade, warehousing, and distribution uses permitted in the MUCZD?*** Table 37.A permits wholesale trade and warehousing uses in existing buildings, but only in compliance with WDB 37.7.2. New warehousing and distribution buildings will not be permitted, except where they are consistent with an approved specific plan.

**37.7.2 What standards apply to wholesale trade, warehousing, and distribution uses in the MUCZD?**

37.7.2.1 Outdoor Sales and Storage are strictly limited. See WDB 37.4.

37.7.2.2 Suitability of Buildings. Warehousing, wholesale trade, and distribution uses shall only be allowed in existing and approved buildings that have already been designed for and are suitable for warehousing, wholesale trade and distribution. Suitable buildings would have such design features as loading docks and site configurations that can accommodate truck traffic and truck turning movements.

37.7.2.3 Compatibility with Permitted Uses. Warehousing and distribution uses may be permitted in existing and approved buildings in the MUCZD only where their impacts on the environment, the town's infrastructure, and neighboring land uses are determined to be compatible with each other.

**37.8- Retail Sale of Medical and Recreational Cannabis** The retail sale of cannabis for medical or recreational purposes is allowed in this zoning district, subject to the following application procedures and restrictions.

**37.8.1 Discretionary Permit Required.** An Administrative Permit to establish a Medical Cannabis Dispensary or Recreational Cannabis Retail Operation may only be issued by the Zoning Administrator following the approval of a Discretionary Permit by the DRB, following all of the required procedures of WDB 6.

**37.8.2 Submission Requirements and Security Plan.** Applications for Medical Cannabis Dispensaries and Recreational Cannabis Retail Operations must include all of the information required by the Discretionary Permit Checklist and must also include a Security Plan that explains how the business will be secured including:

- A description of how all points of entry (including but not limited to doors, windows, HVAC grates and roof accesses) will be secured.
- A description of how all cannabis materials will be secured within the operation, and
- A description of what on-site security will be provided during hours of operation, and
- A description of all alarm systems and automatic lighting or other systems that will be used to provide security for the dispensary after hours.

**37.8.3 Hours of Operation.** A Medical Cannabis Dispensary or Recreational Cannabis Retail Operation may operate between the hours of 9:00 AM and 9:00PM.

**37.8.4 Signage.** Signage for a Medical Cannabis Dispensary or Recreational Cannabis Retail Operation may only be approved as a part of the Discretionary Permit. Signage shall include text only and shall not incorporate any graphical elements including but not limited to pictures, icons or symbols. Signs for Medical Cannabis Dispensaries and Recreational Cannabis Retail Operations may only be placed on the wall of the building containing the main entrance of the business within OR on the ground within 50 feet of the business entrance. Signs are limited to one (1) wall sign of 12 square feet in size OR one freestanding sign no more than six (6) feet in height of no more than eight (8) square feet in size.

**37.8.5 Location** No Medical Cannabis Dispensary or Recreational Cannabis Retail Operation shall be located:

- within 200 feet of the property line of a residential property, with the exception of a residential property across a state highway, or
- within 1000 feet of the property line of a Medical Cannabis Dispensary or Recreational Cannabis Retail Operation in existence at the time a complete application for a Discretionary Permit is filed with the Zoning Administrator;
- Except a single business which functions as both a Medical Cannabis Dispensary and Recreational Cannabis Retail Operation shall not be required to separate the medical and recreational operations from one another as described above.

**37.9 Specific Plans.** Specific plans (see Chapter 9 of this bylaw) may be used to refine the requirements of this zoning district where it is not part of the TCFBC. The DRB may, when reviewing a pre-application, require that the applicant submit a specific plan before a discretionary permit for a new use, or a new structure or major addition will be approved.

<b>Table 37.A - Mixed Use Commercial Zoning District</b>	<b>NAICS</b>	<b>Notes</b>
Uses that are not specifically permitted are prohibited. Listed uses are permitted only in compliance with all applicable requirements of this bylaw and with the purpose statement for this zoning district.		
<b>Residential, (multi-household dwellings)</b>		
<b>Retail Trade, but only as listed below</b>		
Motor Vehicle & Parts Dealers	441	
Furniture and Home Furnishings Stores	442	
Building Material & Garden Equipment & Supplies Dealers	444	
Convenience Stores	44512	But only as an accessory to other permitted uses,
Sporting Goods Stores	45111	
Hobby, Toy, and Game Stores	45112	
Gift, Novelty, and Souvenir Stores	45313	But only as an accessory to other permitted uses
Cannabis Retail		As allowed in 37.8
<b>Information</b> , but specifically not 51213, Theaters	51	Theaters should be in the TCFBC.
<b>Finance &amp; Insurance</b>	52	
<b>Real Estate</b>	529	
<b>Professional, Scientific, and Technical Services</b> , but specifically not 54194, Veterinary Services as noted	54	Vets with outdoor treatment and/or boarding facilities must be located in the ARZD
<b>Management of Companies &amp; Enterprises</b>	55	
<b>Administrative Support Services</b>	561	
<b>Educational Services</b>	61	
<b>Health Care and Social Assistance</b>	62	
<b>Arts, Entertainment, and Recreation</b> , but specifically not 71111 – Performing Arts Companies	71	Theaters should be in the TCFBC Zoning District
<b>Accommodation &amp; Food Services</b> , as listed below		No drive-through food service is permitted.
Hotels and Motels, except Casino Hotels	72111	

Full Service Restaurants	72491	But only as an accessory to other permitted uses.
Limited Service Eating Places (cafeterias, snack bars)	72011	But only as an accessory to other permitted uses
Food Service Contractors	72019	
Caterers	72031	
Mobile Food Services (vendors, kiosks)	72033	
Drinking Places	72041	But only as an accessory to other permitted uses.
<b>Other Services</b> , but only as listed below		
Personal & Laundry Services	812	
specifically except 81203 Linen & Uniform Supply	81203	
<b>Public Administration</b>	92	Parks are permitted in all zoning districts.
Medical and Recreational Retail Cannabis Sales	453998	In this category, only Medical and recreational Cannabis sales may be allowed, and only with the approval of a Discretionary Permit.

<i><b>In existing and approved buildings ONLY</b></i>		
<b>Manufacturing</b> , but specifically not 322, Paper, 324, Petroleum and Coal Products, 325, Chemicals, or 331, Primary Metals Manufacturing	<b>31-33</b>	<b>See WDB 37.6 for standards for these uses.</b>
<b>Warehousing</b> , only as listed below		<b>See WDB 37.7 for standards for these uses.</b>
Furnishing and Home Furnishing Merchant Wholesalers	<b>4232</b>	
Prof and Commercial Equipment and Supplies Merchant Wholesalers	<b>4234</b>	
Electrical and Electronic Goods Merchant Wholesalers	<b>4236</b>	
Hardware and Plumbing and Heating Equipment and Supplies Merchant Wholesalers	<b>4237</b>	
Miscellaneous Durable Goods Merchant Wholesalers	<b>4239</b>	
Merchant Wholesalers, Nondurable Goods	<b>424</b>	
Beer, Wine, and Distilled Alcoholic Beverage Merchant Wholesalers	<b>4248</b>	
Miscellaneous Non-Durable Goods Merchant Wholesalers	<b>4249</b>	
Wholesale Electronics Markets and Agents and Wholesalers	<b>425</b>	
Couriers and Messengers	<b>492</b>	
Warehousing and Storage	<b>493</b>	