

CITY OF MIDDLEBURG HEIGHTS, OHIO

Amended 2/23/21

Ordinance No. 2020- 100

Introduced By: Mayor Matthew Castelli

AN ORDINANCE
AMENDING CHAPTER 1140 MIXED USE (MU) DISTRICTS
OF THE ZONING CODE OF THE CITY OF MIDDLEBURG HEIGHTS

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDDLEBURG HEIGHTS, STATE OF OHIO, AS FOLLOWS:

Section 1: That Chapter 1140 of the Zoning Code of the City of Middleburg Heights, entitled "Mixed Use (MU) Districts" shall be amended to read as written in "Exhibit A", a copy of which is attached hereto.

Section 2: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Chapter 107 of the Middleburg Heights Code and Section 121.22 of the Ohio Revised Code.

Passed: 3/23/21

David Bortolotto
President of Council

Attest: M. Meola
Clerk of Council

Approved On: 3-25-2021

Presented to Mayor: 3/24/21

Matthew Castelli
Mayor

Table with 2 columns: Name, Yea, Nay. Rows include Bortolotto, Ali, Sage, Meany, McGregor, Ference, Grech.

I, Mary Ann Meola Clerk of  
the Council of the City of Middleburg Hts., Ohio,  
hereby certify that Ord. 2020-100  
adopted by the Council of the City of Middleburg  
Hts., on 3/23/21 was posted for a period  
of fifteen days, beginning 3/25/21  
and remained so posted for fifteen days at the two  
posting places as designated by Charter.

Mary Ann Meola  
Clerk

**CERTIFICATE**

I, Mary Ann Meola Clerk of Council of the City of Middleburg Heights, Ohio, do  
hereby certify that the foregoing is a true and accurate copy of Ord. 2020-100  
passed on the 23<sup>rd</sup> day of March 2021 by said Council.

Mary Ann Meola  
Clerk of Council

**CHAPTER 1140**  
**Planned Mixed Use (PMU) District**

1140.01	Intent.
1140.02	Permitted uses.
1140.03	Prohibited Uses
1140.04	Lot and Building Development Standards
1140.05	Supplementary yard regulations
1140.06	Height regulations.
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1140.09	Submission requirements;
1140.10	Planned Mixed Use Development Agreement
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**1140.01 INTENT.**

- (a) It is the purpose and intent of this Planned Mixed Use Overlay District to permit and encourage the orderly, cooperative and flexible development and expansion of certain medical, office, retail and residential land uses in a planned environment. It is further the intent of this District:
- (1) To insure compatible relationships between land use activities.
  - (2) To insure the compatible orientation of one building to another in regard to building bulk, architecture and open space.
  - (3) To provide for visually pleasing and functional treatment of open areas.
  - (4) To provide for an efficient and safe circulation system for pedestrians, bicycles and vehicles.
  - (5) To provide adequate and flexible parking space for immediate and future needs.
  - (6) To ensure that signs are adequate, but properly controlled to prevent them from detracting from the appearance of the development.
  - (7) To encourage cooperation among individual owners, and/or developers to achieve the above listed objectives.

- (8) To permit flexibility of design in the placement and use of buildings and open spaces, circulation facilities and off-street parking areas, and to more efficiently utilize potentials of site characterized by special features of geography, topography, size or shape.
- (9) To provide flexibility in the application of certain provisions of this Zoning Code.
- (b) Because of the special characteristics of a Planned Mixed Use District, special provisions governing the development of land for this purpose are required. Whenever there is a conflict or difference between the provisions of this subchapter and those of other subchapters in this chapter, the provisions of this subchapter shall prevail for the development of land in this District.
- (c) **Administrative Waivers.** Administrative waivers as provided for in this Chapter may be considered by City Council to provide flexibility in the design of developments in order to carry out the goals and intent of this District.

1140.02 PERMITTED USES.

- (a) **Non-Residential Uses.** The permitted non-residential uses for the Planned Mixed-Use District shall include those uses permitted in the following zoning districts: Office Building (OB), General business (GB) and Shopping Center (SC).
- (b) **Residential Uses.** The permitted residential uses for the Planned Mixed Use District shall include multi-family structures.
  - (1) The allowable density for a multi-family development in this District shall conform to the permitted densities and other applicable lot development standards for the Residential Multi-Family (RMF-2) zoning district.
- (c) **Accessory Uses.** In addition to the principal uses permitted in this District, accessory uses shall be permitted which are necessarily and customarily associated with, and are appropriate, incidental, and subordinate to, such principal uses and being subject to all applicable accessory use regulations provided in this Zoning Code.

1140.03 PROHIBITED USES.

- (a) The following uses shall be expressly prohibited in the Planned Mixed Use District:
  - (1) Agriculture
  - (2) Alternative Financial Services
  - (3) Auto Sales
  - (4) Boarding Houses
  - (5) Car Wash
  - (6) Dealers or businesses with outdoor display of automotive, recreational vehicle, motorcycle, boat, construction equipment, farm equipment, manufactured homes, and other similar equipment for sale, rent or lease.
  - (7) Food Processing

- (8) Gas Station/Convenience Store
- (9) Heavy Industry
- (10) Heavy Equipment Sales
- (11) Massage Parlor
- (12) Machine Shop/Manufacturing
- (13) Outdoor Sales area over 60 square feet
- (14) Outdoor Storage
- (15) Sexually Oriented Businesses
- (16) Storage as a primary use including mini-storage and self-storage
- (17) **Tattoo Parlors**
- (18) Towing Services, salvage yards and impound lots
- (19) Any use or development that creates a danger to public health or safety and/or a nuisance, including but not limited to environmental pollution; traffic; noise. vibration; odor; dust; or, glare, is subject to interpretation by the Building Official in order to determine whether such is compatible to the zoning district.
- (20) Any use similar to one or more other uses already prohibited within this District.

1140.04 LOT AND BUILDING DEVELOPMENT STANDARDS.

In a Planned Mixed-Use District, buildings and land shall be used, and buildings shall be designed, erected, altered, moved or maintained, in whole or in part, only in accordance with the following schedule:

- (a) Non-Residential Uses. The development standards for all non-residential lots and structures in this District shall conform to those applicable development standards set forth in Chapter 1137 of this Zoning Code.
- (b) Residential Uses. The development standards for residential lots and structures in this District shall conform to those applicable development standards set forth in Chapter 1133 of this Zoning Code.

1140.05 SUPPLEMENTARY YARD REGULATIONS.

Yards may be used for off-street parking, loading, traffic circulation, illumination, landscaping and signs as regulated in this Zoning Code.

- (a) Yard Screening and Landscaping. Wherever a building is located on a lot which adjoins a Residential District, a front, side or rear yard of not less than set forth in Section 1140.04 shall be provided on the building lot, and the Planning Commission may require a wall or fence, five to seven feet in height, placed at least ten feet inside the Planned Mixed Use District boundary line to shield adjacent residential areas from parking lot illumination, headlights, fumes, heat, blowing papers and dust and to reduce the visual encroachment of buildings, signs and site activity. The area between such wall or fence and the property line shall be treated with planting and maintained to form a permanent landscaped area. (Ord. 1996-69. Passed 12-10-96.)

1140.06 HEIGHT REGULATIONS.

The height of any permitted building in a Planned Mixed-Use District shall not exceed sixty (60) feet. Mechanical space for building equipment placed on the building roof may be allowed above

the maximum height specified, provided that such mechanical space is set back a minimum of thirty-five (35) feet from any exterior wall, does not exceed ten (10) feet in height and is adequately screened from view, provided that such space and screening are approved by the Planning Commission. (Ord. 1996-69. Passed 12-10-96.)

1140.07 OFF-STREET PARKING.

All development within this Planned Mixed Use District shall satisfy the applicable off-street parking standards as provided for in Chapter 1141 of this Zoning Code.

1140.08 OPEN SPACE.

- (a) **Open Space Requirements.** No less than 10% of the land developed in any Planned Mixed Use District development project shall be reserved for common open space for the residents or users of the area being developed. A minimum of 50% of the required total common open space area shall consist of active open space.
  - (1) Active open space shall be designed with the goal to encourage active recreational use(s) for the users of the development. Active open space may include, but may not be limited to, the following uses: common gathering space, mowed open space, children play areas, and community garden areas.
  - (2) When the physical terrain and site layout permits, all open space areas shall be connected through pedestrian related facilities including but not limited to: sidewalks, hike/bike trails, and other similar pedestrian pathways.
- (b) **Ownership of Open Space.** The required amount of common open space reserved under a Planned Mixed Use development shall be held in corporate ownership by owners of the project area for the use of each owner who buys property within the development or for use of visitors to the development.
- (c) **Maintenance of Open Space.** The responsibility for the maintenance of all open spaces shall be specified by the developer in the Planned Mixed Use application materials.

1140.09 SUBMISSION REQUIREMENTS; PRELIMINARY PLANS AND SUPPORTING DATA.

An Applicant whose land is within a Planned Mixed Use District shall, at a minimum, submit the following application items to the Planning Commission and include the following:

- (a) **Preliminary Plan Contents.** A Preliminary Development plan shall, at a minimum, include the following data, details, and supporting plans. All site plans shall be prepared by an Ohio registered professional civil engineer. Items required for submission include:
  - (1) Name of the project, boundaries, and location maps showing the site's location in the city, date, north arrow, and scale of the plan.
  - (2) Name and address of the owner of record, developer, and seal of the engineer who prepared the site plan.

- (3) Names and addresses of all owners of record of abutting parcels and those within 200 feet of the property line.
- (4) All existing lot lines, easements, and rights-of-way. Include area of subject parcel to be developed in both acres and square feet.
- (5) Indicate the existing land use and current zoning classification of all abutting parcels.
- (6) The location and use of all existing and proposed buildings and structures within the development including building footprints, overhangs, site coverage, building-ground contact, and area. A brief description of the use of the site shall be included with an estimate of the number of employees.
- (7) All dimensions of height and floor area for all buildings proposed for the development.
- (8) Illustrations of internal traffic movement, ingress and egress, and the location of all present and proposed public and private drives, parking areas, driveways, sidewalks, ramps, curbs, fences, paths, landscaping, walls, and fences.
- (9) Illustrated drawings identifying the location, height, intensity, and bulb type (e.g., fluorescent, sodium incandescent) of all external lighting fixtures. A photometric analysis of the proposed development site shall be submitted as part of the site plan application to determine conformance with the illumination standards set forth in the 2006 Middleburg Heights Design Guidelines document.
- (10) Illustrated drawings identifying the location, height, size, materials, and design of all proposed signage.
- (11) The location of all present and proposed utility systems, including sewage systems, water supply system, telephone, cable and electrical systems, storm drainage system, including existing and proposed drain lines, culverts, catch basins, headwalls, end walls, hydrants, manholes, and drainage swales.
- (12) Existing and proposed topography at a two foot contour interval. All elevations shall refer to the nearest United States Coastal and Geodetic Benchmark. If any portion of the parcel is within the 100-year floodplain, the area will be shown and base flood elevations given.
- (13) A preliminary landscape plan prepared by a landscape architect registered in the State of Ohio showing all existing natural land features, trees, forest cover and water resources, and all proposed changes to these features including size and type of plant material. Water resources will include ponds, lakes, streams, wetlands, floodplains, and drainage retention areas. The landscaping regulations found in 2006 Middleburg Heights Design Guidelines document shall apply.

(b) Design Guidelines. The site design, building design and landscape guidelines shall apply to all development occurring under this Planned Mixed-Use District as set forth in the 2006 Middleburg Heights Design Guidelines document.

(c) Traffic Impact Study. A traffic impact study shall be a requirement for preliminary plan review if the expected trip generation of the land use is 100 or more cars per hour as identified in the *Institute of Traffic Engineers (ITE) Manual*. A traffic impact study shall be prepared by a qualified professional engineer registered in the State of Ohio at the Applicant's expense. The traffic impact study shall investigate the feasibility and benefits of improvements such as signals, turn lanes, driveway movement limitations, and other relevant information to the site to protect the safety of the traveling public. The traffic impact study shall include the following elements:

- (1) A description of the site and study area.
- (2) Anticipated development of adjacent parcels.
- (3) Trip generation and distribution, including a description of all assumptions used to generate findings of trip distribution.
- (4) Modal split, if applicable.
- (5) Traffic assignment resulting from the development.
- (6) Projected future traffic volumes.
- (7) An assessment of the impact that would result from driveway alternatives.
- (8) Recommendations for site access and transportation improvements needed to maintain traffic flow within and past the site at an acceptable and safe level of service.
- (9) An evaluation of the effects the proposed development will have on the level of service and roadway capacity.

1140.10 PLANNED MIXED USE DEVELOPMENT AGREEMENT.

- (a) The Building Official shall provide the Planning Commission with a draft of the Development Agreement with the Preliminary plans submission. The Development Agreement shall provide for various development related provisions, including, but not limited to:
  - (1) Administrative waivers as mutually negotiated between the City and the Applicant.
  - (2) Operational details of the proposed land uses for the site.
  - (3) Site inspection details and procedure.
  - (4) Project construction phasing details.
  - (5) Off-site infrastructure improvements required to be installed by the Applicant.
- (b) The Development Agreement shall ultimately be approved or denied as part of the Preliminary Plan review with City Council. Full execution of the agreement by the Applicant and the City shall be required as a conditional of approval for the Preliminary Plans. The Applicant shall be responsible for recording the development agreement document, along with any attachments, at Applicant's expense with the County Recorder's office prior to submitting final plan materials to the Planning Commission.

1140.11 EVALUATION BY PLANNING COMMISSION; REPORT AND RECOMMENDATION TO COUNCIL.

The Planning Commission shall evaluate the preliminary plans and data and issue a written report to Council containing its report and recommendation with respect thereto. If the Planning Commission finds that the preliminary plans and supporting data are in accordance with the provisions and intent of this chapter regarding permitted uses, the other applicable provisions of this Zoning Code and other ordinances of the City, it shall approve the preliminary plan and recommend to Council that the specific property set forth in such plan be developed for the proposed use. If the recommendation to Council is that the preliminary plan be modified or disapproved, the report to Council shall state the findings of any failure of compliance with this chapter, other provisions of this Zoning Code or other ordinances of the City. (Ord. 1996-69. Passed 12-10-96.)



1140.12 ACTION BY COUNCIL.

Following receipt of the recommendation by the Planning Commission. Council shall either approve, disapprove or modify the preliminary plan. Council may affirm any report of the Commission by a majority vote of its members. If Council rejects or modifies the report of the Commission, it shall do so only by the affirmative vote of not less than three-fourths of its members. (Ord. 1996-69. Passed 12-10-96.)

1140.13 FINAL PLANS AND PERMITS.

At any time within one year after Council's approval of the preliminary plan, the developer may file with the Planning Commission a final plan for development in the Planned Mixed Use District area, which final plan shall include a final construction level site plan, building construction drawings, Final landscape and site engineering improvement plans. If the Commission finds that the final plan is in accordance with the approved preliminary plan and any conditions thereon, and is otherwise in accordance with all other applicable ordinances, it shall approve such plan. Thereafter, the developer may apply for building permits after compliance with the regular procedures of the City, and after compliance with all applicable ordinances and the payment of the required fees. (Ord. 1996-69. Passed 12-10-96.)

1140.14 PLANNED MIXED USE DISTRICT WAIVERS.

This waiver review process provides a mechanism by which the regulations of the Planned Mixed Use District and other applicable regulations within this zoning code may be modified if the proposed development proposal is determined to be necessary and meets the intended purposes and goals of this Chapter while maintaining conformance to all adopted land use planning studies and documents.

- (a) **Waiver Eligibility:** Planned Mixed Use District waivers are modest changes to site development standards, design standards and residential density standards that are vital to the proposed development and determined to meet the goals and intent of the Planned Mixed Use District and achieve substantial, though not complete, compliance with the standards set forth in this Chapter and other applicable Chapters within this Zoning Code. Waivers shall not compromise the project's ability to meet the goals and intent of this District. Waivers shall be approved by City Council as part of the Preliminary Development plans review and consideration.
- (b) **Waiver Request Requirements.** A waiver request shall be submitted in writing and be included with the other required application requirements for consideration of a preliminary plan. This request shall articulate specifically how the waiver request meets the goals and intent of the district as stated in this Chapter and what circumstances or conditions exist such that a waiver is being requested.
- (c) Each waiver shall be considered on a case by case basis, and a waiver shall not apply to a project other than the project for which it was sought. If a project is not completed for which a waiver was granted, the waiver(s) becomes null and void. Any costs incurred as a result of a granted waiver are the sole responsibility of the Applicant.
- (d) City Council may approve a waiver of the general development requirements for

lighting, parking, signage, access, landscaping and buffer, height, lot size and development, or additional development requirements only upon finding that:

- (1) The proposed development represents an innovative use of site design, site access, circulation, building design, orientation, or building materials/landscaping which will enhance the area.
- (2) The proposed development will not be injurious to the public health, safety, or general welfare of the City.
- (3) The strict application of the general development requirements will result in a development which is undesirable when compared with the proposed development.
- (4) The proposed development is consistent with and compatible with other development located in the area.
- (5) The proposed development is consistent with the suggestions of the City Comprehensive Plan.
- (6) Parking Reductions. Parking reductions from the standards of Chapter 1141 may be permitted during the Preliminary Plan Review and shall take into consideration the following factors:
  - (A) The combination of land uses that result in varying peak parking demands.
  - (B) Availability of on-street parking adjacent to the site or within walking distance of the project site .
  - (C) Proximity to available off-site parking within walking distance of the project site.