

Ordinance No 2021-0012

AN ORDINANCE AMENDING PROVIDENCE CITY CODE TITLE 10 ZONING REGULATIONS, CHAPTER 4 ESTABLISHMENT OF DISTRICTS, SECTION 4 MIXED USE DISTRICT.

WHEREAS, UCA § 10-9a-102.(2) states “. . . municipalities may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls . . .” and

WHEREAS Providence City desires to provide for the health, safety, and welfare, and promote the prosperity, peace and good order, comfort, convenience, and aesthetics of the City and its present and future inhabitants and businesses, and,

WHEREAS the purpose and intent of PCC 10-4-4 is to stimulate economic development by providing a unique planning environment that combines retail, commercial, office, and residential development in a pedestrian friendly manner. This district encourages creative development and site.

WHEREAS the proposed revisions, attached to this Ordinance as EXHIBIT A, clarify the use percentages, the uses allowed, clarify density, define parking lots and parking garages, add bicycle parking requirements, add electric vehicle charging station requirements, add mailbox requirements, and clarify landscaping requirements, and,

WHEREAS the proposed attached revision went before Providence City Planning Commission with the following motion and results:

Motion to recommend to the Providence City Council the proposed amendments to the City Code Title 10 Chapter 4 Section 4 Mixed Use District: — R Cecil, second — B Marble Vote: Yea: K Alder, R Cecil, M Fortune, B Marble, R Perry Nay: Abstained: Excused:

WHEREAS, on July 21st, 2021, the Providence City Council moved as follows:

Motion to approve the Ordinance No. 2021-0012 with the language adjusted on page 3 of 9 of the city code in the Purpose to read “The mixed used district is established to encourage transition between zones and to stimulate economic development by...”: — J Sealy, second — K Eck Vote: Yea: K Eck, C Kirk, J Paulsen, J Sealy, B Speth Nay: Abstained: Excused:

THEREFORE be it resolved by the Providence City Council:

- The attached revision of PCC 10-4-4 Mixed Used District is approved with the change mentioned in the motion.
- This resolution shall become effective immediately upon passage.

Passed by vote of the Providence City Council this 21st day of July 2021.

Council Vote:

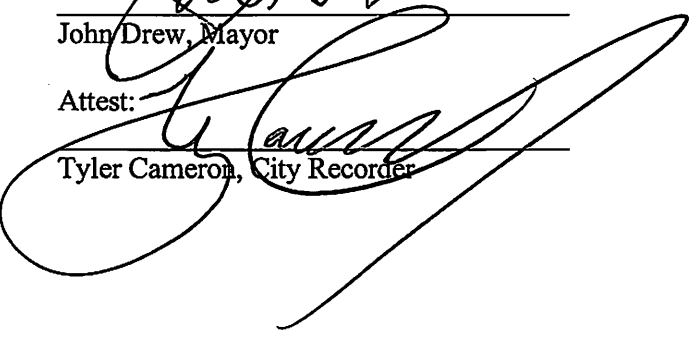
Eck, Kristina	(X) Yes	() No	() Excused	() Abstained	() Absent
Kirk, Carrie	(X) Yes	() No	() Excused	() Abstained	() Absent
Paulsen, Joshua	(X) Yes	() No	() Excused	() Abstained	() Absent
Sealy, Jeanell	(X) Yes	() No	() Excused	() Abstained	() Absent
Speth, Brent	(X) Yes	() No	() Excused	() Abstained	() Absent

Providence City



John Drew, Mayor

Attest: _____



Tyler Cameron, City Recorder

EXHIBIT A
Code Amendment Review and Revision

10-4-4: MIXED USE DISTRICT:

A. **Purpose:** The Mixed Use District is established to encourage transition between zones and to stimulate economic development by providing a unique planning environment that combines retail, commercial, office, and residential development in a pedestrian friendly manner. This district encourages creative development and site. The MX District includes a mixture of uses with no one land use type being a constant dominate or prevailing use. However, residential development is required at a maximum of 39 dwelling units per acre. Of the uses (retail, commercial, office, and residential development) included in the development, no one use can be more than 50% of the entire development. Residential development is required.

1. The percentage of each use is determined by the total square footage of each unit in the particular use.

B. **Procedures:**

1. The Planning Commission shall be the land use authority for approval of all development proposals in the MX District. All exterior construction visible from adjacent properties or public streets must also be reviewed and approved by the Planning Commission.
2. Prior to the Planning Commission taking action, plans must be submitted in accordance with the zoning ordinance.
3. All submissions shall be made in conformance with the adopted application and agenda deadline schedule.

C. **Uses-Allowed:** The variety of uses allowed in a MX District are intended to create a mix of retail, commercial, and residential dwelling land use types that can be developed in a compact design that encourages compatibility of uses. Permitted uses include but are not limited to: single-family and multi-family residential uses, entertainment, office, and personal services such as: business office, dental clinic medical clinic, licensed professional offices, optical shop, pharmacy, studios for art/dance/drama/photography/etc., bakery/confectionery sales, barber/beauty shop, pet grooming, bank/financial, fitness center, and theater. Uses are listed in See 10-6-1 Use Chart for a complete list of uses. Any uses not listed on a table in that section are not permitted. Any development in the MX District must include retail and residential uses; and may include office and/or commercial.

Mixed Use District
Adopted 12/08/2009
Ordinance No. 011-2009

Revisions

- Ordinance 2019-001
01/09/2019

DRAFTS

- 04/14/2021
- 05/03/2021
- 05/11/2021
- 05/12/2021
- Current DRAFT
05/26/2021
- Adjustment from
Council motion on
7-21-2021

D. **Development Standards:** The following provisions shall apply in a MX District, which District shall also be subject to other provisions of the Zoning Ordinance, except that where conflict in regulations occurs, the regulation specified in this Chapter, or on a development plan approved pursuant to this Chapter, shall apply.

1. Open Space: Usable open space shall be provided within the mixed use development with the amount and type of open space depending upon size, scale, and nature of the development as determined by the Planning Commission. Approved open space may include but is not limited to: commons, pocket parks, plazas, courtyards, landscape features, water fountains and features, and greenbelts. Open space shall be maintained by owners or the homeowners association. The design shall encourage comfortable and safe pedestrian use, including landscaping, seating areas, and lighting as appropriate.
2. Standards for area, coverage, density, yard requirements, parking and screening for MX District uses shall be governed by the standards of the residential or commercial zoning districts most similar in nature and function to the proposed MX District use(s), as determined by the Planning Commission, and as modified by the approved general development plan. Standards for public improvements shall be governed by applicable ordinances and laws. Exceptions to these standards by the Planning Commission and by the governing body are possible, when these bodies find that such exceptions encourage a desirable living environment and are warranted in terms of the total proposed development or unit thereof.
3. Horizontal Design. Mixed use projects can utilize horizontal design where commercial, office, and residential uses are designed as a single project, yet constructed in separate and distinct building footprints. **The maximum density for horizontal design is 25 units per net acre.**
4. Vertical Design. Vertical design mixed use uses design strategies where commercial, office, and residential uses are designed as a single project and constructed within the same building footprint. Vertical mixed use promotes pedestrian oriented commercial and retail uses on the main level and office and/or residential uses on the upper floors.
 - a. Mixed use projects utilizing vertical mixed use are eligible for a residential density bonus of up to 30% (39 **33** units per **net** acre) provided other applicable standards are met.
5. Maximum building height within the MX District shall be 45'. Building height is defined in Providence City Code 10-1-4.
6. **Infrastructure Minimum Improvements. Infrastructure minimum improvements shall be completed and in place before the City will issue a building permit for any lot within the proposed development.**
 - a. **The City considers the following public and/or private infrastructure minimum improvements essential or required to meet the building code, fire code, flood or storm water management provisions, street and access requirements.**
 - i. **All grading of roads and/or that portion of parking area(s) (including pit run and road base) that serve as access to buildings as shown on the approved construction drawings, and all curb, gutter, and all utility trenches that lay inside the roadway;**
 - ii. **All storm water (excluding finish grades and landscaping), water, sewer, and other improvements that may be deemed essential necessary public safety improvements; and**
 - iii. **Egress and ingress to provide acceptable and safe travel to and from each proposed structure in the approved development plan.**
 - b. **Inspection. All required testing results and redline drawings must be turned in to the City before the minimum improvement inspection takes place. An inspection of the minimum improvements shall be made and the City Engineer will certify to the City, in writing, that the minimum improvements are complete prior to the issuance of any building permits.**

- 86 i. Asphalt shall not be laid prior to a minimum improvement inspection approval.
- 87 7. Improvement completion assurance – improvement warranty.
- 88 a. Before an applicant conducts any development activity or records a plat, the applicant shall:
- 89 i. Complete any required landscaping or infrastructure improvements; or
- 90 ii. Post an improvement completion assurance for any required landscaping or
- 91 infrastructure improvements (does not include infrastructure that is required to be
- 92 private) of 100% of the incomplete or unaccepted landscaping or infrastructure.
- 93 b. Improvement Warranty. Up on acceptance of the landscaping and infrastructure
- 94 improvements (does not include infrastructure that is required to be private) by the City, the
- 95 applicant shall post a surety bond, letter of credit, or other similar security in an amount of
- 96 10% of the lesser of the:
- 97 i. Municipal engineer’s original estimated cost of completion; or
- 98 ii. Applicant’s reasonable proven cost

99 ~~E. Uses: The variety of uses allowed in a MX District are intended to create a mix of retail,~~

100 ~~commercial (including but not limited to: entertainment, office, personal services), and~~

101 ~~residential dwelling land use types that can be developed in a compact design that encourages~~

102 ~~compatibility of uses. Of the uses included in the development, no one use can be less than 20%~~

103 ~~of the entire development.~~

104

105 **F E. Architectural Design and Materials:** The treatment of building mass, materials and exterior

106 ~~appurtenances~~ **finishes** shall create an aesthetically pleasing building and site that is in character with

107 the proportions of other surrounding developments. Proposed developments shall be designed with a

108 common theme ~~that reflects the heritage and community of Providence and traditional small town~~

109 ~~streetscapes.~~ The use of theme in a proposed development shall be reviewed and approved by the

110 Planning Commission. Requirements applicable to all buildings are stated below:

- 111 1. All sides of buildings shall receive equal design consideration, particularly where
- 112 exposed to vehicular or pedestrian traffic and adjacent properties. Façade shifts shall be
- 113 encouraged on structures with a width greater than 50 feet.
- 114 2. Basic exterior construction materials shall be limited to no more than three types of
- 115 materials per building and all buildings within the development shall possess a similar
- 116 architectural theme. Building styles shall be compatible with existing buildings in the MX
- 117 District.
- 118 3. Buildings shall be designed to relate to grade conditions with a minimum of grading and
- 119 exposed foundation walls.
- 120 4. Mechanical equipment shall be located or screened so as not to be visible from public
- 121 and private streets. Screens shall be aesthetically incorporated into the design of the
- 122 building whether located on the ground or on the roof. Screen materials shall be
- 123 compatible with those of the building.
- 124 5. Plans for the exterior modifications to any existing structures must be submitted to the
- 125 Planning Commission for approval and must meet the same requirements as all other
- 126 structures within the MX District.

6. The primary entrance to a building shall be located facing the public street. Entrances at a building corner that faces the street may be used to meet this requirement.

G F. Buffers, Fences, and Walls: The intent in having special buffer, fence, and wall requirements is to provide quality separation between incompatible commercial uses, and to provide physical and visual protection between commercial and residential uses.

1. Landscape buffers are preferred over fences and walls where a separation is desirable. A visually open look should be encouraged between similar uses. Visual screening is often more important than a physical separation and the Planning Commission may, at its own option, require special treatment of such areas.
2. Buffer treatment may be required whenever a change occurs between residential and non-residential uses. Additional landscaping and screening may be required at the discretion of the Planning Commission within the setback which separates the uses. Fences or walls will be reviewed for their effectiveness in screening a view, and for their color and texture in relationship to building materials.
3. Where differing uses are to be developed adjacent to existing residential areas, special consideration shall be made to protect the privacy of residents and requirements shall be the discretion of the Planning Commission. As a minimum, the negative effects of noise and artificial lighting shall be minimized to protect existing residents.
4. Service areas shall be properly screened. Outdoor lighting shall be designed to prevent exposure of light source to the view of residents. Facilities that require late night customers and activities shall be located away from residential areas to reasonable prevent the disruption of privacy.

H G. Parking Areas: Parking areas include parking garages and parking lots. Parking lots shall be considered as structures since they present a three dimensional appearance when occupied. In mixed use districts a parking garage is defined as a multi-story building that provides parking space, and can be underground. A parking lot is defined as an open area of hard paved surface with designated parking spaces and access aisles. A parking garage is required for occupant residential parking; garages contained within individual units may be considered in lieu of a parking garage.

1. Parking lots areas shall be located in the central portions of the development and not along streets so they can service a variety of buildings. Location of parking shall be determined not only from its visual relationship to building and site, but also as it relates to safe convenient pedestrian and vehicular circulation patterns. The placing of building and parking elements on a site shall be evaluated by the Planning Commission on the basis of the following factors:
 - a. Type of land use and structure.

- 165 b. Building height and configuration.
- 166 c. Relationship to other buildings both horizontally and vertically.
- 167 d. Natural land features such as slopes and vegetation.
- 168 e. Physical features such as rail lines, canals, and controlled ingress and egress.
- 169 f. Visibility from vehicular approaches and distant highways.
- 170 g. Parking locations are strongly encouraged on the side and to the rear of any
- 171 proposed structures, with minimum parking between the front of the building
- 172 and the street.
- 173 h. Cooperation among neighboring land owners and tenants to share parking for
- 174 the public and/or employees is encouraged. The availability of shared parking
- 175 may be used as a justification for the approval of development design and
- 176 configuration proposals that would otherwise not be approved.
- 177 2. Parking shall not occur adjacent to any public street except when:
- 178 a. It has been established that such a location is needed or justified by other site or
- 179 building entrance orientation.
- 180 b. The use is restricted to visitors and/or key employees.
- 181 c. Parking is 80% screened by fencing, walls, and/or landscaping from the highway
- 182 or street by either depressing the paved areas or using elevated landscape
- 183 berms.
- 184 d. A minimum of 10 feet of landscaped screening consisting of mixed evergreen
- 185 and deciduous trees shall surround the periphery of paved areas adjacent to
- 186 buildings or property lines. The number of trees for this area shall be
- 187 determined by a standard of 1 tree per every 200 square feet of landscaping
- 188 required.
- 189 3. **Bicycle Parking. New construction of and additions to retail/commercial structures and**
- 190 **multi-unit dwellings must provide bicycle parking spaces.**
- 191 a. **Retail/commercial structures must provide at least 1 space per 4,000 square**
- 192 **feet or ten percent (10%) of the required off-street parking spaces, whichever is**
- 193 **greater.**
- 194 b. **Multi-unit dwellings must provide at least one (1) space per four (4) units if units**
- 195 **do not have a private garage or private storage space for bike storage, or ten**
- 196 **percent (10%) of the required off-street parking spaces, whichever is greater.**
- 197 c. **Bicycle spaces must accommodate bicycle storage medium security racks, in**
- 198 **which the user may lock both the bicycle frame and the wheels. The spaces**
- 199 **must be designed to prevent damage to the bicycle and to facilitate easy and**
- 200 **secure storage without interference from or to adjacent bicycles. Bicycle racks**

or lockers must be anchored and of solid construction, resistant to rust, corrosion, hammers, and saws.

d. Bicycle spaces must be compatible in design and function with the surrounding buildings and with surrounding street fixtures.

e. Bicycle repair and maintenance station. A minimum of one (1) bicycle repair station per development or one (1) per 25 bicycle parking spaces, whichever is greater, must be installed.

f. Bicycle facilities must be located in convenient, highly visible, active well-lighted areas, but shall not interfere with pedestrian movements and snow storage.

4. Electric Vehicle Charging Station Requirements (EVCS).

a. ELECTRIC VEHICLE CHARGING STATIONS. Electric Vehicle Charging Stations are an Allowed Accessory Use in all Zoning Districts.

b. INFRASTRUCTURE. An Applicant shall provide Electric Vehicle Charging Station Infrastructure for twenty percent (20%) of the first one hundred (100) required Off-Street parking spaces for Multi-Unit Dwellings and non-Residential Development and for five percent (5%) of required Off-Street parking spaces above one hundred (100).

i. The Electric Vehicle Charging Station Infrastructure shall be identified on all construction documents submitted for review.

ii. To put future Property Owners on notice of the Electric Vehicle Charging Station Infrastructure, an Applicant shall provide information in Covenants, Conditions, and Restrictions or other documents governing a homeowner or master owners association for the Development and/or on the breaker panel.

c. INSTALLATION. An Applicant shall install Electric Vehicle Charging Stations for five percent (5%) of required Off-Street parking spaces for Multi-Unit Dwellings and non-Residential Development for the first 200 parking spaces.

i. The first Electric Vehicle Charging Station installed shall be a dual-port with one Charging Station that is ADA accessible. This dual-port shall count as one Charging Station. Dual-port Charging Stations installed thereafter shall count as two Charging Stations.

d. STANDARDS.

i. Location. Electric Vehicle Charging Stations shall not obstruct:

1. Building access;
2. Rights-of-Way;
3. sidewalks or pathways;
4. parking space dimensions; or
5. the Sight Distance Triangle.

e. SOLAR ENERGY SYSTEMS. Solar Energy Systems may be installed on permanent Parking Area Structures for Electric Vehicle Charging Stations in non-Historic Zoning Districts. Solar Energy Systems shall be incorporated in the roof of the permanent Structure and shall be mounted to the roof plane. Solar panels, solar devices, and Solar Energy Systems and mounting equipment shall use non-reflective finishes such as an anodized finish.

3 5. Parking requirements will be considered as ~~maximum~~ **minimum** parking requirements. Residential units will require at least one and a half spaces per unit. Nonresidential uses may consider the parking available on public streets as meeting the development requirements. **When computing the parking requirements for the development, the total parking requirements shall be the sum of the specific parking space requirements of all of the buildings or uses in the development.**

‡ H. **Signage:** Proper design and placement of signs and their lighting is critical and shall be compatible with structures and uses. Permitted signs within the MX District shall be in compliance with this code, except that off-premise signs or billboards shall not be permitted. Typical retail signage is designed upon a pedestrian scale located 8 – 12 feet above the sidewalk and placed on the storefronts.

‡ I. **Mailboxes.** Developer shall be required to coordinate placement of clustered mailboxes with the United States Postal Service.

⌘ J. **Landscaping:** Landscaping shall comply with landscaping requirements in commercial districts **and multi-family design standards**, except as approved by the Planning Commission in the process of reviewing a MX District Development.

1. **Rooftop landscaping is considered a private amenity and is not eligible for inclusion in the required landscaping percentage.**

⊥ K. **Service and Loading Areas:** Loading and refuse collections areas shall not be permitted between buildings and streets, and must be screened from view of public and private streets. Streets shall not be used directly for loading, unloading, or refuse collection. Building and improvements upon lots must be designed to properly accommodate loading, unloading and refuse collection. Loading and refuse collection areas shall be properly screened meeting standards stated herein.

L. **General Maintenance:** An overall maintenance schedule shall be implemented by property owners in maintaining all buildings, landscaping, fences, walls, drives, and parking lots (including surfacing and striping, signs, or other structures). The above shall be maintained in good and sufficient repair in a safe and aesthetically pleasing manner. Roads and pavements shall be kept true to line and grade and in good repair.