

## Chapter 600. Zoning

### Article XVIII. Downtown Mixed-Use (D-MU) Zoning District

#### § 600-127. Permitted uses.

##### A. Principal uses.

- (1) In the D-MU Zoning District the following uses, and no other, shall be permitted on the ground level:

Art or craft supply store, studio or gallery.

Antique shop.

Bakery, health food store, ice cream parlor, specialty food store, grocery store, supermarket, candy store, delicatessen or any retail store that prepares or sells food or drink or an eating or drinking establishment, provided such use does not have a dining area of more than 300 square feet and no more than 12 seats, and provided that hours of operation of such use is between the hours of 5:00 a.m. and 11:00 p.m. (except a bakery, which may be operated from 4:00 a.m. to 11:00 p.m.). Retail stores or eating or drinking establishments that provide live entertainment are to be permitted as special use permits only.

Bank, ~~and credit union,~~ or financial institutions.

Barber shop or beauty parlor.

Bicycle store.

Book store.

Pharmacy.

Florist.

Camera Store.

Clothing Store.

Computer sales, supplies and repair store.

Collectible or memorabilia store.

Dry cleaner, provided no cleaning is performed on-premises.

Gift shop.

Health club.

Jewelry store.

Martial arts, yoga and dance studio.

Mobile telephone, electric appliances and other electronics store.

Municipal park, building and other municipal use, including municipal parking lot and municipal parking structure.

Nail salon.

Office of a lawyer, accountant, insurance agent, doctor, dentist, chiropractor or other health care provider licensed by the State of New York.

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Optician and eyeglass store.

Other convenience retail establishment, such as a cosmetic store, drugstore, hardware store and music/video sale and/or rental store.

Pet store, pet grooming store or pet supply store, provided that they are no greater than 3,000 square feet in area.

Professional school, learning center, test preparation center and other similar uses.

Real estate office, medical office.

Shoe store or repair shop.

Travel agency.

Vitamin Store

(2) In the D-MU Zoning District the following uses, and no other, shall be permitted on the upper levels:

- (a) All uses set forth in § 600-127A(1);
- (b) Administrative, professional, medical and other office uses; and
- (c) Professional school, learning center, test preparation center and other similar uses.

B. Accessory uses.

(1) In the D-MU Zoning District the following accessory uses, and no other, shall be permitted:

(a) Off-street parking and loading, ~~including parking structures.~~

(b) Open space or plaza areas accessible to the general public.

§ 600-128

[Amended by LL. No. 8 of 2015]

A. For all applications to the Village Board of Trustees under this section, the procedural guidelines set forth in §§ 600-221, 600-222, and 600-223 of this chapter shall be applicable. Only the following uses, and no others, may be permitted by special use permit issued by the Village Board of Trustees after a public hearing in accordance with § 600-138 of this chapter:

(1) In the D-MU Zoning District the following uses, and no others, may be permitted on the ground floor by special use permit:

Bakery, health food store, ice cream parlor, specialty food store, grocery store, supermarket, candy store, delicatessen or any retail store that prepares or sells food or drink or an eating or drinking establishment, where such use has a dining area of more than 300 square feet and more than 12 seats or where the hours of operation are before 5:00 a.m. or after 11:00 p.m. (except a bakery, which may be operated from 4:00 a.m. to 11:00 p.m.).

Bar and grill establishment.

Butcher shop.

Cabinetmaking, furniture or upholstery business.

Cinema, movie theatre, theatres and performing arts theatre.

Coffee shop.

Community center.

Fish market.

Funeral parlor.

Manufacturing use as accessory to a retail use.

Museum.

~~The office of a doctor, dentist, physical therapist or other medical care provider except that, on Main Street, between Route 109 and Melville Road, any such use, including those uses which require a state or federal license, including but not limited to a doctor, dentist, physical therapist or other medical care provider, day care center, nursery, health care professional, and adult care facility shall be prohibited on the ground level.~~

Other ground floor office use which the Board of Trustees finds is consistent with the intent and purpose of this article.

Pet store, pet grooming store or pet supply store which is greater than 3,000 square feet, provided that it does not front on Main Street and is located in the southern sub-area.

Place of worship.

Planned shopping centers, retail auto parts stores, drive-up or drive-through windows, but only in the southern sub-area.

Recreational facility.

Restaurant.

- (2) In the D-MU Zoning District on the ground floor any use determined by the Board to be of the same general character as the uses identified in §§ 600-127A(1) and 600-128A(1) may be permitted by special use permit.
- (3) The following residential uses, and no others, may be permitted on the upper levels by special use permit:
  - (a) Multifamily dwellings, provided that the ground floor of the dwelling contains only those permitted uses identified in §§ 600-127A(1) and 600-128A(1). For residential units along Main Street ~~all~~ entrances to the dwelling units may be in the front of the building, fronting on Main Street, by special permit ~~shall be in the rear of the building~~. No multifamily dwelling shall be permitted unless the entire building conforms to the rules and regulations of the D-MU Zoning District. For purposes of this subsection, § 600-211 of this chapter, which prohibits residential buildings in business and industrial districts, shall not apply.

- (b) Dwelling units along Main Street, provided they are located only in the upper levels, above any of the permitted uses identified in §§ 600-127A(1) and 600-128A(1) and that suitable ingress and egress to the dwelling units are provided from the exterior and rear of the of the building. For purposes of this subsection, § 600-211 of this chapter shall not apply.
- (4) Dwelling units on the ground level shall be permitted by special use permit after a public hearing in accordance with § 600-138, provided that such ground level residential units do not front on Main Street and all egress/ingress to the permitted Main Street ground level residential units is situated in the rear of the building.
- (5) All dwelling units shall be subject to the additional following conditions:
  - (a) Any applicant for mixed-use dwelling units shall be required to demonstrate that there is suitable and adequate means of garbage pickup, security service, fire egress, emergency access, light, maintenance service, superintendent availability and other similar matters affecting the safety and quality of life of the occupants of the dwelling units. The applicant shall also demonstrate the proper protection of existing fire egress, light, window views and accessibility of emergency services of neighboring structures. The Board shall establish and impose such conditions as it deems necessary in connection herewith; and
  - (b) All applications must comply with the affordable housing requirements of the Long Island Workforce Housing Act of the New York General Municipal Law.
  - (c) In an effort to protect the health, welfare and safety of the residents of all dwelling units, all owners or occupants of these dwelling units who shall rent such units shall be required to obtain a rental permit. In order to obtain a rental permit all owners or occupants shall submit a yearly residential rental permit application and pay a yearly rental permit fee. Prior to the issuance or renewal of the rental permit, the Village shall inspect the dwelling unit. In the event that the owner or occupant refuses to permit the inspection, the Village shall have the right to seek a search warrant from a court of competent jurisdiction in order to enable such inspection. The rental permit fee shall be set from time to time by resolution of the Board of Trustees. No rental permit shall be issued or renewed unless the requirements of this section have been met.
- (6) Hotels shall be permitted by special use permit, provided they are located within 500 feet of the LIRR train station, measured from the outermost boundary of the building located upon the LIRR property; do not include ground level retail,

restaurant, personal service, or similar uses other than a small shop for items of personal hygiene, and provision is made for outdoor open space or plaza areas accessible to the general public.

- (7) Massage establishment which is compliant with § 600-216.
- (8) In the D-MU Zoning District on the upper floors any use determined by the Board to be of the same general character as the uses identified in § 600-127A(2) may be permitted by special use permit.
- (9) Residential Townhouse Developments. The limitations set forth in §600-128(A)(3) shall apply to Residential Townhouse developments in the D-MU Zoning Districts.

#### §600-132

- A. The Board of Trustees shall have all those powers set forth in New York State Village Law § 7-703. The Board of Trustees, following a public hearing pursuant to § 600-138 of this chapter, may, at its discretion, award incentive bonuses to applicants who provide or make provision for amenities and facilities such as open space, parks and recreational facilities, streetscape amenities, landscaping, energy-efficient building techniques, a greater number of workforce or affordable housing units, road improvements, water and sewer system improvements or other specific physical, social or cultural amenities, or cash in lieu thereof, of benefit to the residents of the Village. In exchange therefor the Board of Trustees may, at its discretion, vary the required density, coverage and floor area ratios, parking requirements, building heights, required setbacks, topographical changes, open space, and permissible uses in the district, provided such variance is consistent with the intent and purpose of this article.
- B. To evaluate the adequacy of the proposed benefits to be accepted in exchange for the requested development incentives, the applicant shall, as part of its initial submission to the Village, submit an application for development incentive bonuses to the Village Building Department along with the payment of any applicable fees which shall be set from time to time by resolution of the Board of Trustees. The application for development incentive bonus shall include the following:
  - (1) A description of the proposed amenities outlining the benefits that will accrue to the community;
  - (2) The economic value of the proposed amenities to the Village as compared with the economic value of the proposed incentives to the applicant, which analysis shall include a comparison of the long-term economic impact of the proposed amenities to the Village compared to the long-term economic value of the incentives to the applicant. For purposes of this section, "long-term" shall be defined as a term of 10 years or more;

- (3) A preliminary demonstration that there are adequate sewer, water, transportation, waste disposal and fire-protection facilities serving or proximate to the proposed development to handle the additional demands the increased density, incentive or amenity may place on such facilities or the Village beyond the demand that would otherwise occur with as-of-right development; and
- (4) An explanation of the physical, social and/or cultural impact of the amenity upon the D-MU Zoning District.

C. Authorization for development incentive bonuses shall be subject to approval by the Board of Trustees after a public hearing in accordance with § 600-138 of this chapter. Upon completion of the public hearing to consider the application for development incentive bonuses, the Board of Trustees shall grant or deny the application. The Board of Trustees shall determine whether the proposed amenities provide sufficient public benefit to provide the requested incentives. In the event that the Board of Trustees grants the application, it may impose such terms and conditions as it deems necessary. If the Board of Trustees determines that a suitable community benefit or amenity is not immediately feasible, or otherwise not practical, the Board of Trustees may require, in lieu thereof, or in addition thereto, a payment to the Village of a sum to be determined by the Board of Trustees. If cash is accepted in lieu of other community benefit or amenity, or in addition to a benefit deemed to be insufficient, provisions shall be made for such sum to be deposited in a trust fund to be used by the Board of Trustees for specific community benefits authorized by the Board of Trustees.

D. The Board of Trustees may not grant incentive bonuses to permit:

- (1) Buildings with heights in excess of 40 feet or 3 1/2 stories, except that the Board may grant incentive bonuses in excess ~~to~~of 40 feet provided such height in excess of the 40 feet is limited to: architectural or design elements or relief; mechanical rooms or areas for the storage of mechanicals such as HVAC equipment; penthouses for elevators or stairways; skylights; chimneys and/or flues; or renewable energy equipment. No more than 30% of the running plate length of each wall in a pitched roof may be dormered or used as habitable space. The maximum roof pitch shall be a 12 on 12 pitch. Under no circumstance may the maximum vertical portion of any portion of a pitched roof exceed 45 feet;
- (2) Densities in the Northern, Eastern and Central Sub-Areas in excess of 60 units per acre; densities in Southern Sub-Area in excess of 45 units per acre;
- (3) Maximum building area coverage greater than 90%; or
- (4) Minimum dwelling unit size less than 550 square feet.
- (5) Any variance related to parking for the residential component of any development.
- (6) Floor area ratio (FAR) to be greater than the FAR set forth in §600-130.

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