

**ORDINANCE NO. 978**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS TO AMEND THE CITY'S OFFICIAL CODE OF ORDINANCES, TO CREATE THE MIXED-USE (MXD) ZONING CATEGORY; ESTABLISHING A PURPOSE AND FINDINGS; PRESCRIBING ALLOWABLE USES AND STRUCTURES IN THE DISTRICT; PROHIBITING CERTAIN INCOMPATIBLE LAND USES AND STRUCTURES; ESTABLISHING ALLOWANCES FOR CERTAIN ACCESSORY USES AND STRUCTURES; ESTABLISHING LOT AND BUILDING REGULATIONS; DEFINING CERTAIN CONDITIONS AND LIMITATIONS WITHIN THE DISTRICT; PRESENTING SITE DEVELOPMENT REGULATIONS; ESTABLISHING PARKING AND LIGHTING REQUIREMENTS.**

**WHEREAS**, the City of Kyle is authorized to make and enforce within its limits all ordinances and regulations as a usual and customary police power; and

**WHEREAS**, Kyle's City Council seeks to further its goals and strategic vision outlined in its Comprehensive Land Use Plan;

**WHEREAS**, the creation of this new mixed-use activity district is congruent with the tenants of the mid-term update of the city's Comprehensive Land Use Plan and the city's desire to encourage higher density of development at key activity nodes across the corporate limits;

**WHEREAS**, the City finds it in the city's best interests to create local zoning regulations on the establishment of uses and structures on private property within the city's jurisdictional limits; and

**WHEREAS**, the City Council finds that existing zoning regulations for the City require greater flexibility to facilitate those complementary land uses recommended by the Comprehensive Land Use Plan, and creating this specific standard will result in more activity options for the benefit of Kyle's employment providers; and

**WHEREAS**, the City Council finds that amending the zoning ordinance to allow and regulate additional live, work, and play uses, as provided for in this ordinance, is reasonable and proper for the good of the City.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS, THAT:**

**Section 1. Findings.** The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made part hereof for all purposes as findings of fact.

**Section 2. Enactment.** Chapter 53 of the City of Kyle City Code, 'Zoning', is hereby amended to incorporate those changes indicated in the included Exhibit 'A'.

**Section 3. Severability.** Should any of the clauses, sentences, paragraphs and/or sections or any other parts of this ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this ordinance.

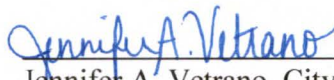
**Section 4. Effective Date.** Effective immediately following the publication in accordance with the City's charter.

PASSED AND APPROVED on this the 21st day of November, 2017.

FINALLY PASSED AND APPROVED on this the 21st day of November, 2017.

ATTEST:

**The City of Kyle, Texas**

  
\_\_\_\_\_  
Jennifer A. Vetrano, City Secretary

  
\_\_\_\_\_  
Travis Mitchell, Mayor

## EXHIBIT 'A'

### MIXED-USE ZONING (MXD) DISTRICT ORDINANCE

*Purpose & Findings.* The Mixed-Use District (MXD) is generally intended to further and promote the tenants of the cities' master plans and comprehensive plan. The district is a commercial zoning classification that requires a vertical mix of commercial and residential uses within the same building(s) on multiple floors. The district is intended to accommodate a physical pattern of development often found in high traffic activity areas, along major streets and especially at intersections of major thoroughfares, and in neighborhood commercial areas of older cities. The district, where appropriately located, will accommodate mixed-use buildings with activity center retail, service, and other commercial uses on the ground and lower floor(s), and residential units above those non-residential space(s); as well as encourage development that exhibits the physical design characteristics of pedestrian- oriented, store front-style shopping; and promote the health and well-being of residents by encouraging physical activity and greater social interaction.

#### 1. Definitions

As used in this zoning district, the following words and terms shall have the meanings specified herein:

**"Floor Area Ratio"** means the ratio of a building's gross floor area to the area of the lot on which the building is located.

**"Gross Floor Area"** is the sum of the gross horizontal areas of all floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. Gross floor area does not include accessory parking (i.e., parking that is available on or off-site that is not part of the use's minimum parking standard), attic space having a floor-to-ceiling height less than seven feet, exterior balconies, uncovered steps, or inner courts.

**"Mixed-use Building"** means a building that contains at least one floor devoted to allowed nonresidential uses and at least one devoted to allowed residential uses.

#### 2. Allowed Uses

Those uses and accessory uses listed in the CBD-1, CBD-2, CC, and NC districts, except as specifically restricted herein. Also, the following uses are allowed in "MXD" zoning districts in accordance with the use table of this section.

USE GROUP		Zoning District
Use Category		MXD
	Specific Use Type	
P= permitted by-right N = Not allowed		C = conditional use
<b>Household commercial</b>	<b>Living (Non-commercial)</b>	
	Artist Live/Work Space located above the ground floor	P
	Artist Live/Work Space, ground floor	C
	Dwelling Units located above the ground floor	P
	Multi-family (3+ units) Residential	P
<b>Institutional Living (Commercial)</b>		
	Assisted Living	C
	Group Home	P
	Nursing Home	C
<b>Civic and Institutional</b>		
	Colleges and Universities	P
	Cultural Exhibits and Libraries	P
	Day Care	P
	Hospital	N
	Lodge or Private Club	N
	Parks and Recreation	C
	Postal Service	P
	Public Safety Services	P
	Religious Assembly	C
	School	C
	Utilities and Services, Minor	P
	Utilities and Services, Major	N
<b>Commercial</b>		
	Adult Oriented/SOBs	N
	Animal Services	
	Shelter/Boarding Kennel	N
	Grooming	P
	Veterinary (with no overnight services)	P
	Artist Work or Sales Space	P
	Drive-Through Facility	N
	Eating and Drinking Establishments	

Dine-in restaurant	P
Tavern	P
Brew Pub (with fewer than 2,500 barrels-worth sold on site, per year)	P
Theatre/Live Music/Movie Venue	
Small (1-149 seats)	P
Medium (150-999 seats)	P
Large (1,000+ seats)	C
Financial Services	P
Food and Beverage Retail Sales	P
Gas Stations	N
Lodging	
Small (1-16 guest rooms)	P
Large (17+ guest rooms)	C
Medical Service (no overnight care)	P
Office	P
Parking, Commercial (Non-accessory to residential)	P
Personal Service, including health clubs and gyms	P
Repair Service, Consumer, including bicycles	P
Personal/Mini- Storage Warehouse	N
Retail Sales, General products/sundries	P
Vehicle Sales, Service, and Repair (Indoor only)	C
<b>Other</b>	
Wireless Communication Facilities	
Co-located	P
Freestanding (Towers)	C

### 3. Floor Area Apportionment

Not including structured vehicle parking as a primary use, no use category (institutional, office, residential, retail, service, etc.) can occupy a gross floor area of less than 20% of the structure's total available floor area; however, pursuant to the city's conditional use process, with recommendation from the Planning Commission, the City Council can, where appropriate, authorize uses that comprise less than 20% of a structure's total gross floor area.

No single use can occupy all the floor area in any structure.

No residential uses, nor uses specifically reserved as accessory to in-house residential, may occupy any ground floor, unless specifically allowed in the preceding use table.

Residential uses shall not be developed at a rate greater than thirty (30) dwelling units per acre.

#### **4. Indoor/Outdoor Operations**

All permitted uses in the MXD district must be conducted within completely enclosed buildings unless otherwise expressly authorized. This requirement does not apply to off-street surface stopping, standing, or loading areas, automated teller machines, outdoor seating and dining areas, recreation and parks, water features and similar public gathering plazas and similar spaces, and public art installations.

#### **5. Floor-to-Floor Heights and Floor Area of Ground-floor Space**

(1) All commercial floor space provided on the ground floor of a mixed-use building must have a minimum floor-to-ceiling height of 11 feet.

(2) All commercial floor space(s) provided on the ground floor of mixed-use building(s) must contain at least 35 percent of the lot area on lots with eighty (80) feet of street frontage or more.

#### **6. Lot Size**

The minimum lot size required shall be two (2) acres for MXD-zoned parcels.

#### **7. Floor Area Ratio**

The maximum floor area : lot area ratio shall be 2:1 for mixed-use buildings.

#### **8. Setbacks**

(1) The entire building façade must abut front and street side property lines or be located within 20 feet of such property lines.

(2) The maximum rear setback is twenty-five (25) percent of the lot

depth.

(3) No interior side setbacks are required in the MXD district, except when MXD-zoned property abuts property zoned for one- and/or two-family residential, in which case the minimum side setback required for the entire abutting side yard shall be twenty-five (25) feet, or half the building height, whichever is greater.

## **9. Building Height**

The maximum building height shall be fifty-five (55) feet and five (5) stories. Where conditions warrant, pursuant to the city's conditional use process, the City Council, after receiving recommendation from the Planning & Zoning Commission, may approve via conditional use permit, a maximum building height in excess of 55 feet and exceeding five (5) stories.

## **10. Off-Street Parking**

(1) All uses on the site will provide parking spaces pursuant to the standardized recommendations of the Institute of Traffic Engineers.

(2) Off-street parking spaces must be located behind the principal building, or otherwise screened to not be visible from public right-of-way or residential zoning districts. For the purposes of this district, the exterior cladding of parking structures meets the requirement of "screening".

(3) There shall be a minimum 15-foot setback from the exterior wall of any parking structure, any overhang of a canopy parking cover, and from the curblane of any open parking area, to any street, alley, or abutting property zoned for one- and/or two-family residential.

(4) Parking structures must be finish-clad with a decorative masonry veneer, consistent with 53-899(j), #1 & #2. Such structures shall not exceed the height of the primary structure to which they are accessory.

(5) The Planning & Zoning Commission is authorized to allow shared parking agreements between directly adjacent properties (not interrupted by rights of way or unrelated properties) to meet minimum required parking spaces. Where shared parking involves more than one property, a cross-access easement and agreement shall be provided to the city and shall be recorded with the deed of such properties. Such agreement must certify the allocation of parking spaces among the parties that is consistent with the shared parking analysis approved by the Planning & Zoning Commission.

The minimum term for cross-access and shared parking agreements, whether inter-parcel or not, shall be 21 years from the date a building permit is issued for any use claiming such shared parking guarantee.

## **11. Transparency**

(1) A minimum of 60 percent of the street-facing building façade between two feet and eight feet in height must be comprised of clear windows that allow views of indoor space and/or product display areas.

(2) The bottom of any window or product display window used to satisfy the transparency standard of paragraph (1) above may not be more than three and a half (3.5) feet above the adjacent sidewalk.

(3) Product display windows used to satisfy these requirements must have a minimum height of five (5) feet and be internally lighted.

## **12. Doors and Entrances**

(1) Buildings must have a primary entrance door facing a public sidewalk. Entrances at building corners may be used to satisfy this requirement.

(2) Building entrances may include doors to individual shops or businesses, lobby entrances, stairwells or areaways to upstairs residential units, entrances to pedestrian-oriented plazas, or courtyard entrances to a cluster of shops or businesses.

## **13. Vehicle and Driveway Access**

Projects developed in the MXD district are not principally intended to be serviced by automobiles, or provide any auto-oriented uses. No more than two (2) public street curb cuts are allowed. No two vehicle accesses to the same parcel are permitted from any one public street frontage at less than 300 feet intervals. Shared access management for adjacent parcels, to maintain this spacing, is strongly recommended. Rear yard or side yard (not both) alley loading is not restricted with regard to curb cuts per frontage; however, structures with one or more public alley loaded access points may not take access from any public street.

## **14. Floor area of dwelling(s).**

The minimum floor area of each dwelling unit shall be as follows:

- (1) One-bedroom: 650 square feet.



- (2) Two-bedroom: 800 square feet.
- (3) Three- or more bedroom: 1,000 square feet.

### **15. Lot coverage**

The maximum lot coverage of impervious improvements of any lot zoned MXD shall not exceed ninety (90) percent.

### **16. Supplemental development regulations**

The site development regulations on uses in the MXD district are as follows:

- (1) Paved sidewalks, driveways and parking areas are required. The sidewalks, pedestrian walkways must be constructed of brick, pavers, or concrete with an exposed broom finish, and connect to the adjacent property having a common frontage.
- (2) At least one pedestrian pathway from the public right of way into the structure(s) on the parcel must be provided.
- (3) Crosswalks with adequate signage, striping, and lighting (if required) will be provided at all intersections, both public, private, and/or both.
- (4) Screening of loading, storage, and trash/refuse facilities is required.

### **17. Building facade requirements.**

All new buildings constructed within the MXD district shall comply with the following requirements:

- (1) All exterior walls shall be constructed of 100 percent stone, brick, masonry, stucco, masonry veneer, or similar granular product excluding doorways and windows;
- (2) All roof surfaces visible from the street shall be surfaced with metal, concrete, clay tile, or minimum of 25-year dimensional shingles. Rooftop HVAC equipment shall be screened completely from view;
- (3) It is recommended, but not required, that improvements to existing buildings in this district comply with subsections (1) or (2) of this section; and
- (4) Glare. No use or operation in an MXD district may be located or conducted so as to produce intense glare or direct illumination across any property line from a visible source of illumination nor may any such light be of such intensity as to create a nuisance or detract from the use and enjoyment of adjacent property.

- 18. Uses noncumulative.** Uses and bulk standards within this district are reserved solely to those uses and structures expressly permitted in this district, and are not cumulative as related to other zoning districts unless so stated elsewhere.
- 19. Exterior lighting.** For compliance with the city's outdoor lighting ordinance, properties zoned MXD will be considered "LZ-3: Moderately high ambient lighting".