

Ordinance 2022-28

SHORT TITLE:

AN ORDINANCE ENACTING NEW MIXED-USE ZONES AND AMENDING CERTAIN ZONING REQUIREMENTS TO INCLUDE THESE ZONES. CITYWIDE APPLICATION. (PLOTA20220144)

I
PASSAGE BY MUNICIPAL COUNCIL
ROLL CALL

DISTRICT	NAME	FOR	AGAINST	OTHER
CW 1	KATRICE MACKAY	✓		
CW 2	DAVID SHIPLEY	✓		
CD 1	BILL FILLMORE	✓		
CD 2	GEORGE HANDLEY	✓		
CD 3	SHANNON ELLSWORTH	✓		
CD 4	TRAVIS HOBAN	✓		
CD 5	RACHEL WHIPPLE	✓		
TOTALS		7	0	

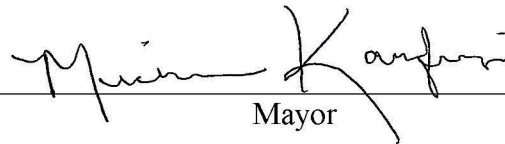
This ordinance was passed by the Municipal Council of Provo City, on the 9th day of August 2022, on a roll call vote as described above. Signed this 18th day of August 2022.



Chair

II
APPROVAL BY MAYOR

This ordinance is approved by me this 18th day of August.



Mayor

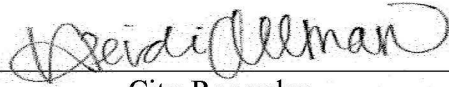
Ordinance 2022-28

III

CITY RECORDER'S CERTIFICATE AND ATTEST

This ordinance was signed and recorded in the office of the Provo City Recorder on the 18th day of August 2022 and was published on the Utah Public Notice Website on the 10th day of August 2022. I hereby certify and attest that the foregoing constitutes a true and accurate record of proceedings with respect to Ordinance Number 2022-28.





City Recorder

1 ORDINANCE 2022-28

2
3 AN ORDINANCE ENACTING NEW MIXED-USE ZONES AND AMENDING
4 CERTAIN ZONING REQUIREMENTS TO INCLUDE THESE ZONES.
5 CITYWIDE APPLICATION. (PLOTA20220144)
6

7 WHEREAS, it is proposed that Provo City Code Chapter 14.14D be enacted to create two
8 new mixed-use zones and that certain parking and fencing requirements be amended to reference
9 these new zones; and
10

11 WHEREAS, on May 25, 2022, the Planning Commission held a duly noticed public
12 hearing to consider the proposed action, and after such meeting, the Planning Commission
13 recommended approval to the Municipal Council by a vote of 6:0; and
14

15 WHEREAS, on June 7, 2022, June 21, 2022, and August 8, 2022, the Municipal Council
16 met to ascertain the facts regarding this matter and receive public comment, which facts and
17 comments are found in the public record of the Council's consideration; and
18

19 WHEREAS, after considering the Planning Commission's recommendation and facts and
20 comments presented to the Municipal Council, the Council finds (i) Provo City Code should be
21 amended as described herein and (ii) the proposed action reasonably furthers the health, safety
22 and general welfare of the citizens of Provo City.
23

24 NOW, THEREFORE, be it ordained by the Municipal Council of Provo City, Utah, as
25 follows:
26

27 PART I:
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29 Provo City Code Chapter 14.14D is hereby enacted as set forth in Exhibit A.
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31 PART II:
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33 Provo City Code Section 14.37.100 is hereby amended as set forth in Exhibit B.
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35 PART III:
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37 Provo City Code Section 14.34.500 is hereby amended as set forth in Exhibit C.
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39 PART IV:
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- 41 A. If a provision of this ordinance conflicts with a provision of a previously adopted
42 ordinance, this ordinance shall prevail.
43
44 B. This ordinance and its various sections, clauses and paragraphs are hereby
45 declared to be severable. If any part, sentence, clause or phrase is adjudged to be

46 unconstitutional or invalid, the remainder of the ordinance shall not be affected
47 thereby.

48
49 C. The Municipal Council hereby directs that the official copy of the Provo City
50 Code be updated to reflect the provisions enacted by this ordinance.

51
52 D. This ordinance shall take effect immediately after it has been posted or published
53 in accordance with Utah Code 10-3-711, presented to the Mayor in accordance
54 with Utah Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

55
56 END OF ORDINANCE.

Exhibit A

Chapter 14.14D Mixed-Use Zones

14.14D.010.	Purpose and Objectives.
14.14D.020.	Permitted Uses.
14.14D.030.	Conversion of Properties
14.14D.040.	Lot Standards.
14.14D.050.	Prior Created Lots.
14.14D.060.	Yard Requirements.
14.14D.070.	Projections.
14.14D.080.	Building Height.
14.14D.090.	Minimum Residential Unit Size.
14.14D.100.	Minimum Habitable Main Floor Depth.
14.14D.110.	Parking, Loading, and Access.
14.14D.120.	Amenities and Landscaping.
14.14D.130.	Design Standards.
14.14D.140.	Project Plan Approval.
14.14D.150.	Other Requirements.

14.14D.010. Purpose and Objectives.

Mixed-use development combines two or more types of land use into a building or set of buildings that are physically and functionally integrated and mutually supporting. This can be some combination of residential, commercial, office, institutional, or other land uses. Mixed-use areas often encompass the main street/downtown, activity center, or commercial corridor of a local community, district, or neighborhood node. These zones are intended for areas designated as “mixed-use” in neighborhood plans or the General Plan. These zones are intended to be located along collector or arterial roads. These zones are not intended to be located in areas where they would have a significant impact on single-family neighborhoods. For purposes of consolidation, the requirements for the Mixed-Use (MU) zone and the Neighborhood Mixed-Use (NMU) zone have been drafted into one chapter. The purpose of each mixed-use zone is described below:

(1) The Mixed-Use (MU) zone is established to provide a high-quality urban development that is pedestrian-friendly and complementary to the surrounding area. The permitted uses and development standards are intended to encourage redevelopment of land in order to provide a mix of residential and commercial uses where property values are high and demolition is viable. Uses in this zone should not compete with Downtown, but should provide similar types of uses incorporated into the design.

(2) The Neighborhood Mixed-Use (NMU) zone is established to provide a neighborhood center that respects the single-family residential character and can offer a range of uses. The permitted uses and development standards are intended to encourage redevelopment of land in order to provide a mix of residential and commercial uses where property values are high and demolition is viable. Uses in this zone should not compete with Downtown or a shopping center, but should provide neighborhood scale support type uses, incorporated into a mixed-use design.

(3) The term “Mixed-use zones” in this Chapter refers to both the Mixed-Use zone and the Neighborhood Mixed-Use zone, but does not refer to other zones described as mixed-use in other chapters of this Code.

14.14D.020. Permitted Uses.

(1) Permitted Principal Uses. The following principal uses listed in Table 14.14D.1, and no others, are permitted in the Mixed-Use zones:

Table 14.14D.1 – Permitted Uses in Mixed-Use Zones
Key: P = Permitted, C = Conditional, N = Not Permitted

Uses	MU	NMU	Standards/Additional Info
The following uses are permitted in the Mixed-Use zones without stipulation:			
Apartments or condominiums with a minimum 10,000sf commercial component included	P	P	
Assisted living facilities	P	P	Subject to the standards of Section 14.34.470
Live-Work dwelling units (excluded in the 10,000sf commercial component in apartments or condominiums)	P	P	
One-family dwelling – attached (townhomes), not to exceed eight (8) units (not allowed when adjacent to RC and R1 zones)	P	P	
Police protection and related services, branch (office only)	P	P	
Residential facilities for the elderly or disabled	P	P	Subject to the standards of Section 14.34.230
Religious activities	P	P	
Utility right-of-way	P	P	
The following residential uses are permitted in the Mixed-Use zones only when buildings or portions of buildings are located directly adjacent to properties in the RC or R1 zone:			
One-family dwelling – attached (townhomes), not to exceed four (4) units	P	N	
One-family dwelling – detached	N	P	
Two-family dwelling	N	P	Subject to the standards of Section 14.34.340
The following residential uses are permitted as a second story to a commercial or other nonresidential use:			
Apartments and condominiums	P	P	
One-family dwelling	P	P	
The following uses are permitted as part of a mixed-use development within the same building:			
Arts and cultural activities	P	P	
Banks	P	P	No drive thru in NMU
Bed and breakfast	N	C	Subject to the standards of Section 14.34.250
Day care services	C	C	Subject to the standards of Section 14.34.250
Eating places, restaurants (no drive through)	P	P	
General retail	P	P	
Medical clinic	P	N	
Personal services (excluding funeral parlors, cemeteries, and crematories)	P	P	
Pharmacy	P	P	
Postal services	P	P	
Professional office	P	P	
Recreational activities	P	P	
Variety stores	P	P	

(2) Permitted Accessory Uses. Accessory uses and structures are permitted in the Mixed-Use zones; provided they are incidental to and do not substantially alter the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

(a) Accessory buildings such as garages and similar structures which are customarily used in conjunction with and incidental to a principal use or structure;

(b) Swimming pools and incidental accessory structures subject to the standards of Section 14.34.210;

(c) Home Occupations subject to the regulations of Chapter 14.41;

(d) Storage of materials used to construct a building, including the contractor's temporary office; provided, that such use is on the building site or immediately adjacent thereto; and provided further, that such use shall be permitted only during the construction period and thirty (30) days thereafter;

(e) Household pets as defined in Chapter 8.02; provided, that no more than two (2) dogs and two (2) cats six (6) months of age or older shall be kept at any residence or commercial establishment at any time.

(3) Uses Within Buildings. All uses established in the Mixed-Use zones shall be conducted entirely within a fully-enclosed building except those uses deemed by the Planning Commission, through the granting of a conditional use permit, to be customarily and appropriately conducted in the open. Uses customarily deemed to be conducted in the open may include, but would not be limited to, public assembly, live entertainment, etc. Open storage within view of a public street or space shall be prohibited. This is not applicable to swimming pools.

14.14D.030. Conversion of Properties.

(1) A building originally constructed as a one-family or two-family dwelling located on a lot or parcel may be converted to professional office, eating places, personal services or general retail use. This Section is intended to encourage preservation of older established homes that contribute substantially to the character of the surrounding neighborhoods.

(2) The conversion of a building from residential to professional office, eating places, personal services or general retail use shall be subject to the following:

(a) One (1) dwelling unit may be located in a building converted to a professional office, eating places, personal services or general retail use. Any allowed residential unit may be located in a basement or second level space and not on the main building level;

(b) The parking standards in Chapter 14.37 for the proposed uses must be satisfied

(c) Notwithstanding any other provision of this Title, a rear yard may be covered in its entirety in asphalt, concrete, or other material as specified in Section 14.37.090, to satisfy parking requirements except as follows:

(i) Each structure shall provide perimeter landscaping at a minimum of four (4) feet in width between the parking lot and each abutting property occupied by a residential use;

(ii) A decorative metal or masonry fence shall be provided between the parking lot and each abutting property occupied by a one or two-family residential use. Vertical, hedge-forming vegetation and one (1) tree per thirty (30) feet shall be provided along the entire length of such fence. The Design Review Committee may approve alternative or existing fence material based on a finding that the alternative materials will result in an adequate transition between the

professional office, eating places, personal services or general retail and abutting residential uses; and

(iii) Two hundred (200) square feet of usable open space shall be provided in the rear yard if a dwelling unit exists in the building. Usable open space may consist of landscaping, a patio or similar amenity for building tenants;

(d) The applicant shall maintain but not change the exterior character of the building while occupied by a professional office, eating places, personal services, or general retail use, unless the exterior modifications are approved by the Design Review Committee. The Committee shall review such modifications for compatibility with the building’s original design and materials;

(e) Building expansion or enlargement for professional office, eating places, personal services, or general retail use, shall not exceed twenty-five (25) percent of the first-floor square footage and enlargements shall not include an increase in building height. Any expansion or enlargement shall be approved by the Design Review Committee. The Committee shall review the expansion for compatibility with the building’s original design and materials;

(f) A building permit must be obtained and building code requirements for the change of use must be satisfied;

(g) The professional office, eating places, personal services or general retail use must be discontinued and all conforming or nonconforming rights shall expire upon demolition of the building; and

h) This section (14.14D.030) shall not apply to a building constructed after November 11, 2008.

14.14D.040. Lot Standards.

Lots within the Mixed-Use zones must be developed according to the following standards listed in Table 14.14D.2:

Table 14.14D.2 – Lot Standards		
Lot Standards	MU	NMU
Minimum Lot Area		
One Family Detached	Not applicable	6,000 SF
Twin Home/Duplex	Not applicable	8,000 SF
One-Family Attached	10,000 SF	10,000 SF
Commercial/Mixed-Use	20,000 SF	20,000 SF
Minimum Lot Frontage	90 feet	35 feet
Minimum Lot Width	90 feet	40 feet
Minimum Lot Width Corner Lot	90 feet	50 feet
Minimum Lot Depth	90 feet	90 feet
Max Lot Coverage	No maximum	60%

14.14D.050. Prior Created Lots.

Lots or parcels of land which were created prior to December 12, 1974, shall not be denied a building permit for a single-family dwelling solely for the reason of nonconformance with the parcel requirements of this Chapter.

14.14D.060. Yard Requirements.

Yard requirements must be met as listed in Table 14.14D.3 (measured from the property line):

Table 14.14D.3 – Yard Requirements		
	MU	NMU

	Minimum	Maximum	Minimum	Maximum
Front Yard	0 feet	10 feet	10 feet	20 feet
Side Yard, corner lot	0 feet	10 feet	10 feet	20 feet
Side Yard, interior – One family detached	N/A	N/A	10 feet	No maximum
Side Yard, interior – All other buildings	No minimum	10 feet	No requirement	10 feet
Rear	20 feet	No maximum	20 feet	No maximum
Driveway Access	16 feet	30 feet	10 feet	24 feet

(1) Courtyards: Front and street side yards may be extended beyond setback limitations for a public space upon recommendation by the Design Review Committee. The approving body must make the following findings in order to allow extension beyond setback limitations:

- (a) That the proposed courtyard will serve a legitimate public purpose;
- (b) That the design of the courtyard enhances the public realm and will reasonably attract daily activity;
- (c) That the courtyard is not raised more than two feet above the street sidewalk grade;
- (d) That landscaping or other elements do not obscure more than twenty-five percent (25%) of the street view into the setback.

14.14D.070. Projections.

(1) The following structures may be erected on or project into any required yard provided it does not obstruct a required driveway:

- (a) Fences and walls in conformance with Provo City Code;
- (b) Landscaping elements including trees, shrubs, and other planting material; and
- (c) Necessary appurtenances for utility service, subject to City approval.

(2) In the MU zone only, buildings may project over required driveways provided that a minimum of ten (10) feet of clearance is provided for vehicular access.

(3) The structures listed below may project into a minimum front or rear yard not more than four (4) feet, and into a minimum side yard not more than two (2) feet.

- (a) Cornices, eaves, belt courses, sills, buttresses or other similar architectural features;
- (b) Fireplace structures and bays, provided they are not wider than eight (8) feet and are generally parallel to the wall of which they are a part; and
- (c) Stairways, balconies, door stops, fire escapes, awnings and planter boxes or masonry planters.

(4) In the MU zone only, balconies may project into the street right-of-way a maximum of five (5) feet so long as a minimum of ten (10) feet of vertical clearance is provided between the sidewalk and the projecting balcony.

14.14D.080. Building Height.

Building height requirements must be met as listed below in Table 14.14D.4.

Table 14.14D.4 – Building Height		
	MU	NMU
Total Maximum Building Height	65 feet	38 feet
Minimum Number of Building Stories	2 stories	
Maximum Number of Building Stories adjacent to R1 or RC zones and within fifty (50) feet of the zone boundary	2 stories	
Maximum Number of Building Stories for all other buildings	5 stories	3 stories
Maximum Parapet/Cornice:	5 feet	
Minimum First Story Height for Commercial Uses	14 feet floor to ceiling	
Maximum First Story Height	20 feet floor to ceiling	
Maximum Main Floor Elevation	30 inches above lowest adjacent curb elevation	

(1) Roof mounted mechanical equipment is permitted so long as it is completely screened behind an architectural feature of the primary structure.

(2) See Section 14.34.090 Height Limitations – Exceptions for additional requirements that must be adhered to.

14.14D.090. Minimum Residential Unit Size.

Each development that includes a residential use must provide a minimum unit size of no less than five hundred (500) square feet. This requirement shall not apply to institutional housing units (i.e., elderly housing, assisted living facilities, etc.). There shall be an equal amount of studio and one (1) bedroom units in apartments and condominium uses.

14.14D.100. Minimum Habitable Main Floor Depth.

(1) Each structure in the Mixed-Use zones fronting a public street must have a minimum habitable main floor depth of thirty (30) feet along the entire street frontage except for along permitted side yards and driveway approaches.

(2) In the case of a corner lot that abuts two (2) primary streets, driveway access to the property may be permitted from one (1) of the primary street frontages subject to approval by the City Engineer and the Design Review Committee.

14.14D.110. Parking, Loading, and Access.

(1) Each lot or parcel in the Mixed-Use zones need only provide seventy-five (75%) percent of the required off-street parking as set forth in Chapter 14.37.

(2) Shared use of parking may be allowed if the Planning Commissions deems it suitable. A parking study is required if seeking this option.

(3) Parking must be located behind the main building. In no case may parking be located between the building and a public street.

(4) A parking agreement may be entered into with a property owner who owns a parking garage within one (1) block of the development to supplement the required parking. This agreement must be notarized and recorded at Utah County.

(5) Structured parking is not permitted above the minimum habitable floor area along primary streets.

(6) At grade parking shall be wrapped by habitable space except at entrance and exit points.

14.14D.120. Amenities and Landscaping.

(1) Mixed-Use Zone (MU). In any new project consisting of twenty (20) or more residential units, an area equivalent to twenty percent (20%) or more of the residential gross floor area must be developed in recreational amenities, such as a common clubhouse, gym, pool, rooftop garden, or other amenity. Landscaping in front and streetside yards, the fifteen (15) foot minimum facade setback, and other required areas (such as distance provisions required by the International Building Code) shall not be calculated towards meeting this provision. Only fifty percent (50%) of the required recreational amenity space may be located outdoors at the ground floor level. Any open space counting towards this requirement must be massed or accumulated to be functional as a recreational amenity or gathering space.

(2) Neighborhood Mixed-Use Zone (NMU). In any new project consisting of ten (10) or more residential units, an area equivalent to ten percent (10%) or more of the gross lot area must be developed in residential amenities, such as a common clubhouse, gym, pool, roof-top garden, or other amenity. Amenities that are enclosed may count towards meeting this provision. Landscaping within the required setbacks shall not be calculated towards meeting this provision. Any open space counting towards this requirement must be massed or accumulated to be functional as a recreational amenity or gathering space.

14.14D.130. Design Standards.

(1) All buildings must follow the standards set forth in Section 14.34.287.

(2) Horizontal mixed-use is not permitted. The Development Services Director or designee may modify this requirement on findings that the proposed development satisfies the intent of the Mixed-Use zones.

(3) Each unit shall include a kitchen (sink, stovetop with four (4) burners, oven, dishwasher, garbage disposal, and built-in cabinets), bathroom, and closet adequate for storage of items.

(4) There must be an equal amount of studio and one (1) bedroom units in apartments and condominium uses.

14.14D.140. Project Plan Approval.

See Sections 15.03.300 and 15.03.310.

14.14D.150. Other Requirements.

(1) Signs (see Chapter 14.38).

(2) Landscaping (see Chapter 15.20).

(3) Trash storage and location.

(a) All trash storage areas must be designed according to the standards of Section 14.34.080 – Trash Storage, except the following provisions shall prevail:

(i) Trash storage container enclosures must not be located between a building and any primary or secondary street right-of-way. A conditional use permit under the provisions of Section 14.34.080 cannot be issued to allow trash storage within a front or street side yard; and

(ii) Trash storage containers must be located behind a principal building (accessed via a driveway, alley or other internal block right-of-way). If this is not possible due to site constraints, trash storage containers may be enclosed within a required habitable floor area adjacent to a secondary street, if:

(A) It is completely enclosed within the building; and

(B) A one hundred per cent (100%) opaque lockable garage door or other equivalent, that measures no more than ten (10) feet in width and eight (8) feet in height is provided.

(4) Fencing (see Section 14.34.500), no chain-link fencing shall be permitted in the Mixed-Use zones.

(5) Sidewalk Cafes (see Section 14.34.480).

(6) Canopies and Marquees (see Section 14.34.490).

(7) Temporary uses are not permitted.

(8) Distance Between Buildings. There is no requirement for distance between buildings, except as regulated by the International Building Code.

Exhibit B

14.37.100

Parking Design Standards.

...

(7) In the case of permitted uses in A1, RA, R1, VLDR, ~~and~~ LDR, ~~and~~ NMU zones, when used for access to a garage, carport, or parking area having four (4) or more parking spaces, a driveway shall be a minimum of twelve (12) feet in width for one (1) way traffic, or sixteen (16) feet in width for two (2) way traffic.

...

Exhibit C

14.34.500

Fencing Standards for Residential Zones.

Fencing in the One-Family Residential (R1), Residential Conservation (RC), Very Low Density Residential (VLDR), Low Density Residential (LDR), Medium Density Residential (MDR), High Density Residential (HDR), **and** Campus Mixed Use (CMU), **Neighborhood Mixed-Use (NMU), and Mixed-Use (MU)** Zones shall comply with the following standards:

...