

**BOROUGH OF HATBORO
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO. 1055

**AN ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF
HATBORO, MONTGOMERY COUNTY, AMENDING THE PROVISIONS OF THE
HI-MU HEAVY INDUSTRIAL – MIXED USE ZONING DISTRICT
AT CHAPTER 27, PART 15,**

BE IT ENACTED AND ORDAINED by the Council of the Borough of Hatboro, Montgomery County, Pennsylvania that the Borough of Hatboro Zoning Ordinance is hereby amended as follows:

WHEREAS, Part 25 of the Borough of Hatboro Zoning Ordinance and Section 609 of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10609, authorize the Borough Council of the Borough of Hatboro to enact amendments to the Borough of Hatboro Zoning Ordinance;

WHEREAS, the intent underlying the HI-MU Zoning District is to allow for a variety of residential, commercial, and recreational uses to replace economically and socially outdated industrial land uses with mixed uses beneficial to the public health, safety, and welfare.

WHEREAS, the Borough Council of the Borough of Hatboro has determined that it is in the best interests of the municipality to adopt this Ordinance amending the Borough of Hatboro Zoning Ordinance.

WHEREAS, the Borough Council of the Borough of Hatboro has determined that this Ordinance is generally consistent with the Borough's Comprehensive Plan;

WHEREAS, a public hearing was held for the purpose of considering this amendment to the Borough of Hatboro Zoning Ordinance; and

WHEREAS, the Council of the Borough of Hatboro, after a public hearing, and after receipt of recommendations from the Hatboro Borough Planning Commission and the Montgomery County Planning Commission, deems it appropriate and proper that the Zoning Ordinance be amended to permit a variety of residential, commercial and recreational uses as part of mixed use developments within the HI-MU Heavy Industrial – Mixed Use Zoning District, on properties meeting certain additional criteria, and finds that such ordinance modifications are in accordance with the spirit and the intent of the Borough of Hatboro Zoning Ordinance and Comprehensive Plan.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Borough Council of the Borough of Hatboro, Montgomery County, Pennsylvania that the Borough of Hatboro Zoning Ordinance is hereby amended as follows:

1. SECTION 27-1502.E. of the Zoning Ordinance is hereby amended to read as follows:

E. The following uses shall be permitted as a conditional use in the HI-MU District only:

1. Multi-family mixed use development.

(a) Subject to the standards and procedures set forth in § 27-1506, each multi-family mixed use development shall consist of multi-family dwellings, and at least one of any of the following uses:

1) Any of the following uses, which shall not exceed in the aggregate 15% of the total floor area of the building or buildings, excluding basements and garages.

i. Retail sale of dry goods, general merchandise, clothing, food, flowers, beverages, pharmaceuticals, household supplies, or furnishings. Any retail uses shall be limited to the ground floor.

ii. Restaurant, tearoom, cafe, or similar establishment serving food and beverage, and having facilities for the indoor seating of their patrons, but without drive-in or drive-through service. Any restaurant uses shall be limited to the ground floor.

iii. Business or professional office, studio, bank, and financial institution.

2) Parks, playground, tot lots, and open space.

3) Indoor recreation facility, provided that its use is solely for the residents of the development.

4) Child day care center when authorized as a special exception.

(b) In addition to the standards set forth in § 27-1506, a multi-family mixed use development shall comply with the following standards:

1) The development shall consist of at least 85% residential use of the floor area and no more than 95% residential use of the floor area. Floor area shall be measured from the interior faces of the perimeter wall. Floor area shall include lavatories, closets, stairwells, access halls, fully enclosed porches and basement or cellar or attic space that is potentially habitable and has a minimum head clearance of at least seven feet. There shall be no more than five nonresidential uses in a multi-family mixed use development.

- 2) **Maximum Density.** A maximum density of 20 dwelling units per acre shall be permitted, provided that a maximum density of 35 dwelling units per acre shall be permitted for any reuse and conversion of an existing building. The Borough Council shall retain the sole discretion to determine whether an existing building shall be retained and reused, and whether the maximum density of up to 35 dwelling units per acre shall be permitted as part of the conditional use application. In the alternative, the Borough Council may limit the maximum density to 20 dwelling units per acre to a specific application even though an existing building(s) or part thereof are being, or shall be, retained.
- 3) **Building Coverage.** Not more than 60% of the lot area of a multi-family mixed use development may be occupied by buildings.
- 4) **Impervious Coverage.** Not more than 85% of the lot area of a multi-family mixed use development may be occupied by impervious surface.
- 5) **Buffer Area.** A multi-family mixed use development shall be effectively screened from any adjoining nonresidential uses from view, through the proper use and layout of walls, fences, or permanent landscaping as approved by Borough Council. Except in the case of the reuse and conversion of an existing building, the buffer area shall have a minimum width of 20 feet.
- 6) **Recreation and Open Space; Amenities.** The developer shall be required to maintain not less than 20% of the tract in usable open space for the provision of recreational and leisure time activities and facilities for the benefit of the residents.
 - i. Usable open space shall include all land used for recreation, resource protection, amenities, or buffers, which is freely accessible to all residents of the mixed use development.
 - ii. Any area of usable open space shall have a minimum area of 1,000 square feet and a minimum dimension of 30 feet; provided, that in the case of the reuse and conversion of an existing one building, any area of usable open space shall have a minimum area of 500 square feet and a minimum dimension of 10 feet.
 - iii. Such open space may include improvements and impervious surface coverage to the extent that such is an element of the particular open space use and serves a related function, whether as courtyards or pedestrian walkways.

- iv. Landscaped areas within off-street parking areas (and public rights-of-way) are specifically excluded as usable open space.
- v. Streetscaping. Applicant will provide a plan and narrative on how the applicant will conform to the Elm Street Plan for streetscape improvements.

2. Industrial mixed-use development.

(a) Subject to the standards and procedures set forth in § 27-1506, each industrial mixed-use development shall consist of at least two of the following uses:

- 1) Any use permitted in Section 27-1502.1.A and/or B, and
- 2) At least one of any of the following uses, which shall not exceed, in the aggregate, 15% of the total floor area of all buildings included as part of the industrial mixed use development:
 - i. Retail sale of dry goods, general merchandise, clothing, food, flowers, beverages, pharmaceuticals, household supplies, or furnishings. Any retail use shall be limited to the ground floor.
 - ii. Restaurant, tearoom, cafe, or similar establishment serving food and beverage, and having facilities for the indoor seating of their patrons, but without drive-in or drive-through service. Any restaurant use shall be limited to the ground floor.
 - iii. Business or professional office, studio, bank, and financial institution.

(b) In addition to the standards set forth in § 27-1506, an industrial mixed-use development shall comply with the following requirements:

- 1) Any use set forth in Section 2(a)(2) above, shall be located adjacent to, and be directly accessible from, a public street.
- 2) The applicant shall bear the burden of proof that the proposed industrial mixed-use development adequately considers the public safety.
- 3) Borough Council may, in its discretion, require that an industrial mixed-use development include buffering or screening adequate to shield industrial uses from non-industrial uses on neighboring lots.

Notwithstanding anything contrary to the foregoing, the buffer requirements in this Section shall not apply to industrial mixed-use developments that repurpose existing building(s) on the property.

- 4) Requirements that environmental features, stormwater management improvements, or other enhancements be made in order to include a mix of uses with an industrial use.

2. SECTION 27-1506.2 of the Zoning Ordinance is hereby deleted in its entirety and replaced as follows:

2. Development Standards. The following development standards for either a multi-family mixed use development or an industrial mixed use development shall apply:

- A. Minimum Acreage. A minimum lot area of two acres shall be required.
- B. Setbacks from Public Streets, Highways, and Property Lines. Setbacks from any applicable street lines or property lines which adjoin the mixed use development, measured from the nearest foundation wall to the applicable property line or street lines, shall be as specified in § 27-411 and § 27-1503, except:
 - (1) Existing nonconforming buildings and structures, which may be continued as specified in § 27-2101, Subsection 1.
 - (2) For any multi-family dwelling part of a multi-family mixed use development, a terrace, deck, platform, or landing and its associated roof or canopy covering which does not extend above the level of the first floor of the building, may be located within the front yard but shall be not less than five feet measured from the right-of-way line.
- C. Distance Between Buildings. Except in the case of existing nonconforming buildings and structures, which may be continued as specified in § 27-2101, Subsection 1, the horizontal distance between any two buildings, measured from the building foundation wall at the nearest point to the nearest adjoining building foundation wall, shall not be less than twice the height of the taller building, except:
 - (1) For any two exterior facing walls, neither of which have any windows serving a dwelling unit, the minimum distance between the buildings shall be at least 1/2 the height of the taller building.

- D. Height of Buildings. Except in the case of existing nonconforming buildings and structures, which may be continued as specified in § 27-2101, Subsection 1, no building in a mixed use development shall exceed 40 feet in height and no more than three stories, not including the basement.
- E. Other Development Standards. A mixed use development shall provide public improvements, such as sidewalks, shade trees, fences, hedges, walls, streetlights, benches, and other streetscape features which are in accordance with the design standards of the Comprehensive Plan and Revitalization Study, as approved by Borough Council.

3. SECTION 27-1506.3 of the Zoning Ordinance is hereby deleted in its entirety and replaced as follows:

- 3. Procedures. Applications for approval of a conditional use under this section shall be made to Borough Council, which shall apply the standards and requirements set forth in this section, after first holding a public hearing, at which a full opportunity to be heard shall be given to any citizen and all parties in interest. The burden of proof shall, at all times, be on the applicant. The application for conditional use shall, in addition to all other information required, provide the information required by § 27-2209. In addition to seeking the opinion and advice of the Borough Planning Commission, the Borough Council shall, at least 30 days prior to the public hearing on the conditional use application. Upon the request of Borough Council, the applicant shall submit:
 - A. A traffic impact and/or off-street parking study by a qualified traffic engineer and/or transportation planner with previous traffic impact and off-street parking study experience.
 - B. A Phase I Environmental Site Assessment (ESA) conducted in accordance with current ASTM 1527 standards or standards promulgated by federal or state authority (e.g., EPA All Appropriate Inquiry standards).
 - C. Phase II Environmental Site Assessment(s) and any similar additional environmental studies, work plans, remediation plans, environmental data, etc., as required by the Borough Engineer pursuant to commonly accepted standards to characterize the site's environmental condition considering the proposed reuse

4. SEVERABILITY. It is hereby declared to be the legislative intent that if a court of competent jurisdiction declares any provision of this Amendment to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Amendment shall continue to be separately and fully effective. The Borough Council hereby declares that it would have passed this Amendment and each Section or part thereof, other than the part declared invalid, if the Council had advance knowledge that any part would be declared invalid.

5. REPEALER. Any resolution, ordinance or part of any ordinance or resolution inconsistent herewith, and any amendments thereof, are hereby expressly repealed and the provisions of this Ordinance shall prevail.

6. RATIFICATION. In all other respects, the provisions of the Borough of Hatboro Zoning Ordinance, as amended, shall remain in full force and effect.

7. EFFECTIVE DATE. This Zoning Ordinance shall become effective upon adoption.

ENACTED and ORDAINED this 17 day of JUNE, 2019.

COUNCIL OF BOROUGH OF HATBORO

Attest: [Signature]
Name: Diane C. Heffele
Title: BORO VtH MGR/SEC

By: [Signature], Council President