



## **708.20 MXD, Mixed Use Development**

### **A. *Purpose and Intent.***

The MXD district is intended to allow flexible site planning and building arrangements for commercial, office and residential uses under a unified plan which fosters natural resource conservation and reduces traffic congestion. This may permit buildings and uses to be clustered or arranged in an unconventional manner to maximize open space, create a pedestrian scale and other public benefits. Plans should include a combination of related uses - residential, office, retail, entertainment, civic space, and/or government uses. Vertical integration is encouraged to maximize the use of land. In all cases, the site should be designed to be highly walkable, whereby the pedestrian experience is safe and enjoyable. Residential buildings must be designed and constructed so as to meet the definition of Four-Sided Architecture, as defined in Section 724.02. All commercial building facades visible from a public street must also be designed and constructed so as to meet the definition of Four-Sided Architecture, as defined in Section 724.02. In this district smaller lots than might otherwise be permitted under traditional zoning districts may be allowed; however, the purpose is not merely to allow smaller lots or reduce development requirements but to achieve other goals including the protection of sensitive environmental, historic, or aesthetic resources as well as the provision of site amenities such as parks, open space, walking trails, etc. The MXD district is not intended to encourage greater density of development, but rather to facilitate compatible commercial and non-commercial uses and provide quality developments which enhance the surrounding area. This district may also be utilized to foster the adaptive reuse of existing buildings.

### **B. *Permitted Uses.***

This district is designed to allow mixed-use developments which are designed under a unified plan. The planned development should incorporate features such as coordinated transportation and parking networks, building design parameters and holistic landscaping themes. No single-use development is permitted in MXD. A significant proportion of each use must be provided in the mix, with at least 30% of the total floor area of the development dedicated to residential use and 20% of the total floor area of the development dedicated to commercial or office use. The mixture of uses should ideally help provide people with the goods and services they need on a day-to-day basis. Quality mixes will help make efficient use of land and public infrastructure, for example by sharing the same parking area during different times of day, depending on the use, as described in Section 716.07 (B.).

1. Allowable uses shall be adopted with the general plan or detailed plan in the form of a list or reference to permitted uses in an already established zoning district.
2. Residential uses may include single family detached homes, townhouses and condominiums, provided:
  - a) A mandatory homeowners association shall be created that will be responsible for the upkeep and maintenance of all front yards and common areas including all fencing, landscaping, amenities and buffers, and shall include architectural control oversights for the development.
  - b) "Four-sided architecture" is required, such that architectural features and materials shall be used in a consistent manner on all sides of the residential units. Materials to be used on exterior facades of all buildings shall include brick, stone, stucco (not EFS type) or fiber-cement siding, or combinations of those materials. No vinyl, aluminum or metallic siding may be used.
  - c) All residential units shall be "for sale" only, and no more than five percent (5%) of all the homes within the residential development shall be allowed to be renter occupied at any time. A recital of this requirement shall be contained within the covenants to ensure enforcement. In addition, the homeowner's association or other governing body is hereby charged with the



**ZONING ORDINANCE**  
**DIVISION 708**  
**DISTRICT STANDARDS AND PERMITTED USES**

---

responsibility of enforcing this regulation on all homeowners and owners of lots and property in the development. The homeowner's association shall enforce this regulation to ensure compliance with city ordinances with both the initial owner of the property as well as all subsequent owners. Failure of the homeowner's association to require and achieve compliance may result in a penalty by the City of Marietta against the homeowner's association in the amount of \$500.00.

- d) All single family detached homes and townhouses shall have two-car garages, and the parking pads/driveway in front of the garage shall be a minimum of 20 feet in length (measured from the back of sidewalk or back of curb when there is no sidewalk) in order to accommodate two additional cars. The garages shall be used for the parking and storage of vehicles and may not be enclosed to provide for additional residential space. A recital of this requirement shall be contained within the Covenants to ensure enforcement.
- e) A guest parking area shall be provided at a ratio of 0.2 spaces per dwelling unit.
- f) The development shall comply with all recommendations from the City of Marietta Public Works Department with respect to hydrology, stormwater management, down stream considerations and any donation and/or conveyance of right-of-way that is deemed necessary.
- g) A 150-foot acceleration lane and a 150-foot deceleration lane with appropriate tapers shall be constructed, if required by the Public Works Department.
- h) A recreation area shall be provided at a ratio of 1 acre per 50 units (or a proportional percentage thereof) with a minimum of 10,000 square feet provided. Such area shall be developed with at least one passive recreational feature, such as a gazebo or picnic area, and at least one active recreational feature, such as a walking trail, swimming pool, playground or tennis courts. Active recreational areas must be outside of any floodplain area and located in such a manner that at least 75% of the townhouses are within 300 feet, as measured from the building footprints. Any recreation area, whether passive or active, must be located in an area with a slope of less than 15%; however, all recreation areas must meet ADA requirements for accessibility. Active recreational areas must be improved through the use of terracing or other techniques to provide a usable area, such that at least 25% of the entire recreational area shall have a slope of no greater than 3%.

**C. Temporary/Conditional Uses Allowed by the Director.**

- 1. Mobile Retail Food Establishment shall be allowed on property zoned MXD according to the restrictions listed below:
  - b) Written permission of the property owner is obtained.
  - c) Such use does not last longer than 3 days consecutively and 12 days annually.
  - d) These uses shall be located at least 25 feet from any property line and not within any public right-of-way or City owned property, unless otherwise authorized by the City.
  - e) If property is within fifty (50) feet of a residentially zoned parcel, measured property line to property line, then food truck operations shall cease at 9:00 p.m.
  - f) Adequate paved parking, ingress and egress are provided on site.
  - g) A temporary use permit is applied for and approved by the Director of the Department of Development Services.
  - h) The Board of Zoning Appeals shall not issue and are not granted the authority to issue variances to any of the regulations relating to Mobile Retail Establishments; all such variance requests must be submitted to City Council. Variances for mobile food establishments shall be considered according to the criteria defined under §712.01 (E).

**D. Special Uses Permitted by Board of Zoning Appeals.**



**ZONING ORDINANCE**  
**DIVISION 708**  
**DISTRICT STANDARDS AND PERMITTED USES**

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Not applicable in this district.

**E. Special Uses Permitted by City Council.**

Only those uses delineated in the approved general and detailed plans.

**F. Accessory Structures.**

Not applicable in this district.

**G. Use Limitations.**

All outside storage areas must be located in the rear yard and must be screened by a solid fence or wall no less than six feet in height. Storage of portable sanitation units, portable chemical toilets or any other container intended to hold human waste is prohibited.

**H. Bulk and Area Regulations.**

Minimum Tract Size: 5 acres

**I. Landscape and Buffer Requirements.**

When a property in this district directly abuts a single-family residential district, a 10-foot greenbelt buffer shall be established. Such buffer must include a solid fence or wall no less than 6 feet in height. Stormwater management facilities are not permitted within required buffers.

**J. Procedure for Establishment of Planned Development District.**

1. GENERAL PLAN FILED. The owner or owners of the entire tract of land proposed to be included in the planned development districts shall file a general plan with a request for a change in zoning with the Planning Commission for consideration and referral to the City Council for recommendation. Said plan shall be submitted electronically to City staff in a digital format which meets or exceeds City standards and shall contain such information and representations required or deemed necessary by the City Council, Planning Commission and Public Works Director to permit proper review. Such information and representations must include, but is not limited to, the following:
  - a) A statement describing why standard zoning districts are insufficient and how the proposed development conforms to those parameters and ideals set forth in the "Intent and Purpose" element of this district.
  - b) The general method of development and operation of the proposed general plan.
  - c) The boundaries of the tract of land included in the general plan, the computed area and the legal description thereof, the topography and other salient features of the tract by reference to a plat of survey prepared by a licensed land surveyor.
  - d) The location and extent of existing and proposed public rights-of-way, easements and water and drainage courses bounding and within the tract included in the general plan by reference to a plan or drawing.
  - e) A detailed list of allowable uses, or reference to permitted uses under a specific zoning category.
  - f) The location and type of existing buildings and structures proposed to be retained or removed by reference to a plan or drawing.
  - g) The general location of proposed buildings by reference to a plan or drawing and an indication of the use to be made of each building.
  - h) Dwelling unit density as defined in Section 724.02.



**ZONING ORDINANCE**  
**DIVISION 708**  
**DISTRICT STANDARDS AND PERMITTED USES**

---

- i) Minimum standards for lot development including setbacks, distances between buildings and house sizes.
  - j) Architectural, facade or material requirements.
  - k) The maximum floor area designated for each use.
  - l) The percentage of development maintained as open space and/or recreation areas and impervious surfaces.
  - m) Preliminary tree protection plan and screening standards.
  - n) Public transportation facilities or provisions (if any).
2. **PLAN REVIEWED.** Said plan shall be reviewed by the Planning Commission and a determination made as to whether the proposed plan is consistent with the intent and standards of this district and whether the development of the tract serves the public welfare. Such determination shall be made after an analysis prepared by the Department of Development Services. Said analysis shall include, but is not limited to, the availability of public access and utilities to the tract, neighboring property uses, and the effect on the efficient delivery of city services. A recommendation by the Planning Commission relating to the proposed plan shall be transmitted to the City Council.
3. **COUNCIL APPROVAL.** The City Council, upon receiving the recommendation of the Planning Commission relating to a planned development proposal, shall proceed in accordance with the requirements of law to consider amendment of the zoning map. In the event the City Council approves the general plan and changes the zoning by passing the required amendments to the zoning map, the requirements of the plan shall constitute the zoning regulations for the district and the zoning maps shall be amended. Approval of any general plan shall convey to the applicant all rights associated with the approved preliminary plats as stated in Division 728 (Platting Procedures).
4. **DETAILED PLAN FILED.** Prior to the installation of subdivision improvements, a detailed plan shall be reviewed and approved by the Mayor and Council. Detailed plans shall follow the procedure described in Section 728.04, Preliminary plat and detailed plan application procedures. If approved, site development shall not be permitted in any segment of said tract until site development plans for the proposed improvements, prepared in accordance with Division 728.06, have been approved by City staff. The detailed plan shall include, but is not limited to, the following:
  - a) The location and extent of public rights-of-way, easements and water and drainage courses bounding and within the tract included in the general plan by reference to a plan or drawing.
  - b) Minimum standards for lot development.
  - c) Open space and recreation area provisions (active and passive).
  - d) Data requirements listed in Section 728.05.
  - e) Detailed landscaping plan.
  - f) Detailed architectural elevations of the proposed buildings. Residential buildings must be designed and constructed so as to meet the definition of Four-Sided Architecture, as defined in Section 724.02. All commercial building facades visible from a public street must also be designed and constructed so as to meet the definition of Four-Sided Architecture, as defined in Section 724.02.
5. **PLAN AMENDMENTS.** Pursuant to the same procedures and subject to the same limitations by which plans were approved and amendments to the Official Zoning Map adopted, such plans may



**ZONING ORDINANCE  
DIVISION 708  
DISTRICT STANDARDS AND PERMITTED USES**

---

be amended in whole or in part. Minor changes in use and intensity of use may not require an amendment to the general plan and may be submitted for approval in conjunction with the detailed plan.

(Ord. No. 5903, 10/14/98, Sec. 1; Ord. No. 6051, 10/13/99, Sec. 1)