

**ORDINANCE NO. 836**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ORANGE CITY, IOWA, BY ADDING SECTION 165.34, MIXED USE OVERLAY ZONE TO CHAPTER 165, ZONING REGULATIONS .**

**BE IT ENACTED** by the City Council of the City of Orange City, Iowa:

**SECTION 1.** The Code of Ordinances of the City of Orange City, Iowa, Chapter 165, Zoning Regulations, Section 165.34, Mixed Use Overlay Zone is amended by adding the following wording:

**165.34 Mixed Use Overlay Zone.** The intent of the Mixed Use Overlay Zone (MUO) is intended to allow greater flexibility of development alternatives, especially attractive higher density residential development and live-work buildings, in appropriate areas of the City. More specifically, the intent of the mixed use overlay zone is to accomplish the following objectives:

- A. To encourage mixed use projects that combine residential with nonresidential uses in the same building or building site area as a means to create an active street life and enhance the vitality of businesses;
- B. To provide a meaningful blend of residential and nonresidential uses that enhances and builds upon the City's commercial base;
- C. To provide additional housing options for people, including but not limited to, young professionals and older people, who want to live near their workplaces and/or near retail and other non-residential uses;
- D. To encourage consolidation of small parcels into viable, block-size mixed use development in designated areas;
- E. To ensure on-site compatibility of residential and non-residential uses; and
- F. To ensure compatibility of mixed use projects with surrounding uses and development patterns.

**1. Superimposed nature of mixed use overlay zone.** The mixed-use overlay zone shall be in nature of an overlay zone. Land classified in the mixed use overlay zone shall only be classified in the C-2, Highway Commercial Zone. Property so classified shall be identified on the zoning map by both the underlying zone and the mixed use overlay zone. The regulations set forth in this chapter of the mixed use overlay zone shall be in addition to those regulations set forth in the underlying zone. In the event of a conflict between the provisions of the mixed use overlay zone and the provisions of the underlying zone, the provisions of the mixed use overlay zone shall prevail when a mixed

use project is being developed. If the mixed use overlay zone is silent in relation to any development standard, the development standard identified in the underlying zone shall prevail.

**2. Special focus areas.** With application of the mixed use overlay zone, the City seeks to take advantage of development opportunities in key areas of the City, each of which faces unique opportunities and constraints. A description of the desired purpose of these areas is described in this section to provide guidance for those seeking to construct mixed use development in such areas.

**3. Principal Permitted Uses.** The following uses are permitted in the (MUO) Mixed Use Zone:

- A. All mixed use development in accordance with the provisions of this section requires site plan review pursuant to the standards of this title. Site plans shall be subject to Planning and Zoning Commission review and approval.
- B. Property may be developed solely for residential uses or solely for uses permitted or conditionally permitted in accordance with the provisions of the underlying zoning district.
  1. If developed in accordance with the provisions of the underlying zoning district, site plan review shall not be required for such development unless required by another provision of this title.
  2. If developed solely for residential purposes, development shall be in accordance with the provisions of this chapter for residential development and site plan review shall be required.
- C. If property is developed with a mix of residential and nonresidential uses within the same project area in accordance with the provisions of this section:
  1. Residential:
    - a. Single-family dwellings, Duplex's;
    - b. Multi-family dwellings containing three or more dwellings;
    - c. Townhouses and Condominiums containing three or more dwellings.
  2. Commercial:
    - a. Food sales and service;
    - b. Retail sales and service;
    - c. Professional, administrative, and business uses;
    - d. Recreational facilities.

**4. Special Exception Uses.** The following uses and structures may be permitted in the (MUO) zone subject to review and approval from the Planning and Zoning Commission.

- A. Bars and Nightclubs;
- B. Public Assembly:
  - 1. Lodges and Meeting Halls,
  - 2. Theaters(cinema and otherwise);

**5. Uses prohibited.** All uses not listed are prohibited, unless determined to be similar pursuant to this chapter.

**6. Accessory Uses.** Accessory uses and structures normally appurtenant to the permitted uses and structures are permitted in accordance with Chapter 165(165.25(C)) of this Ordinance.

- A. Private swimming pools, tennis courts, and other recreational facilities in conjunction with a residence.
- B. Temporary building(s) or structure(s) incidental to construction work may exist in accordance with Chapter 165(165.25(3)) of this Ordinance.
- C. Signs permitted in accordance with Chapter 165(165.25) of this Ordinance.
- D. Parking as provided for in Chapter 165.27) of this Ordinance.

**7. Height and Lot Requirements:** The height and minimum lot requirements shall be as follows:

	<b>Lot Area (sq. ft.)</b>	<b>Lot Width (feet)</b>	<b>Front Yard (feet)</b>	<b>Side Yard (feet)</b>	<b>Rear Yard (feet)</b>	<b>Max Height (feet)</b>	<b>Max Lot Coverage (%)</b>
Multi-Family	7,500	*	30	25	*	35	*
Townhouse, Condominiums	2,500 per Unit **	*	30	25	25	35	
Permitted Uses	6,500	*	30	*	*	35	*
Accessory Buildings			*	*	*	20	*

\* Lot and Yard requirements are dependent upon the designated district usage and may vary depending upon areas being conserved or special amenities being used or established and will be reviewed upon submittal of the MU District.

\*\* Minimum Lot size is 7,500 square feet.

**8. Supplemental Requirements:** The Planning and Zoning Commission, in its minutes, shall set forth its reasons for recommendation of approval or denial of the application for a (MUO) Zone approval, along with specific evidence and facts showing that the proposal meets or does not meet the following conditions.

- A. Said (MUO) Zone shall be allowed only in the C-2, Highway Commercial Zoning.

- B. Said (MUO) Zone shall be in general conformity with the provisions of the Orange City Comprehensive Land Use Plan.
- C. Said (MUO) Zone shall not have a substantially adverse effect on the development of the neighboring area.
- D. The minimum size allowed for a (MUO) Zone by type of use shall be as follows:
1. Residential – Commercial (combination), four (4) acres.
- E. Height and yard requirements shall be reflected on the Development Plan and shall promote an efficient and creative use of land.
- F. Use Limitations in a (MUO) Zone no building, structure, land, or premises shall be used, and no building shall be erected, constructed, or altered, except for any use permitted in this District. All uses must be approved as shown on the Development Plan as specified in this District.
- G. Standards and conditions for development:
1. A development proposed for land classified as a (MUO) Zone shall be consistent with the following general standards for use of land, and the use, type, and location of buildings, the density or intensity of use, open space, public facilities, and the Development Plan shall, where applicable, reflect compliance.
  2. The applicant shall satisfy the Planning and Zoning Commission and City Council that there is the ability to carry out the proposed plan, including financial assurances and the phasing of the project, and shall prepare and submit a schedule of construction, if necessary. The proposed construction shall begin within a period of 12 months following the approval of the final application by the City Council. A minimum of 50% of the total planned construction shown on the final plan shall be completed within a period of five(5) years following such approval or the approval shall expire. If the approval expires under this section, the applicant shall show good cause to the Planning and Zoning Commission to extend the plan approved.
  3. The developer shall provide and record Plats, easements, and covenants.
  4. The site shall be accessible from public roads that are adequate to carry the traffic that will be imposed upon them by the proposed development. The streets and driveways on the site of the proposed development shall be adequate to serve the residents or occupants of the proposed development.
  5. Off-street parking and loading shall be provided in accordance with the parking and loading regulations of the City of Orange City.

6. All residential and commercial buildings shall be set back not less than 25 feet from the perimeter of the land zoned (MUO) Zone. Additional setback from a heavily traveled thoroughfare may be required, when found reasonable by the Planning and Zoning Commission for protection of health, safety, and general welfare.
7. The (MUO) Zone shall include such provisions for the ownership and maintenance of the Common Areas as are reasonably necessary to ensure its continuity, care, conservation, and maintenance, and to ensure that remedial measures will be available to the City Council if the common open space is permitted to deteriorate or is not maintained in a condition consistent with the best interests of the (MUO) Zone or of the entire community.
8. Common Areas as defined under this zoning district shall mean land area of the site not covered by buildings, parking, structures. Common Areas shall include open space that is accessible and available to all owners or residents in common pursuant to an Owner's Association.

**9. Application for approval of Mixed Use Zone:** An application for a (MUO) Zone shall be handled in the manner prescribed for amending this Ordinance. The same requirements for notice, advertisement of public hearing, protest, and adoption shall be required as zoning changes.

- A. The full legal description of the boundaries of the property or properties to be included in the (MUO) Zone.
- B. A vicinity map showing the general arrangement of streets within an area of 1,000 feet from the boundaries of the proposed (MUO) Zone.
- C. When a (MUO) Zone includes provisions for common space and/or recreational facilities, a statement describing how much such open space and/or facility be owned and maintained when not under the ownership of a governmental entity. The controlling entity shall provide the City of Orange City with copies of the proposed articles of incorporation and bylaws of such entity.
- D. The Planning and Zoning Commission shall meet within 45 days of an application being filed. Plans shall be filed with the City at least four(4) weeks prior to a scheduled Planning and Zoning meeting. After the application for a (MUO) zone is filed, the Planning and Zoning Commission shall hold a public hearing on said district after giving required notice for hearings and amendments. The Planning and Zoning Commission may recommend disapproval, approval, or approval with amendments, conditions or restrictions.

**10. Final Approval:** The City Council with recommendation from the Planning and Zoning Commission shall or shall not approve the Mixed Use Overlay Zone.

**11. Amendments:** The (MUO) District may be amended by 51% of the owners of the property within the (MUO) Zone.

**12. Zoning Permits:** Zoning permits shall be required in accordance with the provisions of Section 165.30 of this chapter.

**SECTION 2. REPEALER.** All ordinance or parts thereof in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 3. SEVERABILITY CLAUSE.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of this ordinance as a whole or any section, provision or part thereof not adjudges invalid or unconstitutional.

**SECTION 4. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed and approved this 2<sup>nd</sup> day of May, 2022.



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Deb De Haan, Mayor

ATTEST:



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Janet Brown, City Clerk