

# Cape Cod Mixed-Use Model Bylaw & Accompanying Guide

# Acknowledgements

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# Introduction

# Intent of this document

## **Guidance for local officials working from this model bylaw**

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This guide accompanies a model bylaw for mixed-use development on Cape Cod. While the text of the model bylaw is kept to the bare minimum and is written in legal/technical language, this guide explains the thinking behind each of those provisions. It provides context and guidance to local officials and advocates who want to understand and implement mixed-use zoning locally using this draft as a starting point.

# Intent of model bylaw

## **Simple mixed-use zoning amendment**

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This model bylaw intends to be an example first draft of a zoning amendment that allows mixed-use development (residential over retail) for Cape Cod's towns. This model bylaw envisions a range of mixed-use developments that could be appropriate in certain areas on Cape Cod. From small infill shop-front buildings to larger redevelopments of no longer used or underutilized commercial sites, this bylaw can be adapted to encourage a range of mixed-use options. Local policymakers can use this model bylaw as a starting point when considering their town's needs and desires for mixed-use development, including locations where it might be appropriate. Towns should also consider the structure of their zoning bylaw.

# How to honor and advance the mixed-use tradition on the Cape?



Where mixed-use development could be appropriate

## **Village Centers and Suburban Retrofits**

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In general, the model bylaw imagines towns may want to use the bylaw in “Village Center” type areas with an existing and historic mixed-use character and/or in “Suburban Retrofit” contexts, where older automobile-oriented commercial sites are likely to be redeveloped in the coming years. The model bylaw references these contexts and includes provisions specific to each context as well where they may differ.

# Adapting the model bylaw

## Plug-and-play vs. local adaptation

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The technical specifications in this model bylaw can fit into and work well with existing bylaws. Users should refer to the accompanying guide to understand the reasoning behind the bylaw's provisions. Some areas of the bylaw provide a range of options from which a town should select its preference, e.g., bylaw structure or appropriate scale of redevelopment. [Places where towns must make decisions or insert language about their existing code are called out in brackets and in pink text.]

# Bylaw Structure

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- This model bylaw creates a new use designation (“mixed-use development”) that can be allowed in existing base or overlay zoning districts.
- It regulates uses found within a mixed-use development.
- It regulates the intensity, dimensions, and site planning for mixed-use development and defers to the given zoning where rules are not stated.

# Bylaw Table of Contents

## **Table of Contents**

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9. Site Planning
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## Terminology in this guide

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- Throughout the model bylaw the full amendment is referred to as the “section,” assuming that this will be a section of local zoning. The parts of the bylaw listed in the Table of Contents are referred to as “subsections.” Not all zoning bylaws refer to their constituent parts as sections, and any implementing town may need to adjust references to sections/subsections to account for its zoning bylaw’s structure.
- This guide does **not** always use the technical language used in the draft bylaw

# Purpose

# Purpose Declarations

## [Pick and choose]

- To promote public health, safety, and welfare by encouraging active community life.
- To promote economic vitality and greater diversity of housing opportunities.
- To mitigate traffic congestion by promoting housing proximate to compatible commercial uses.
- To provide housing for people at all stages of life and all levels of income.
- To enable the creation of livable, walkable neighborhoods in the town's commercial districts.
- To encourage the continued use of historic village centers.
- To promote consistency, quality, and flexibility in site layout and building design.
- To promote the creation of affordable and attainable housing opportunities for all incomes and ages by increasing residential density and mixed use where appropriate.

This subsection provides guidance on the background and purpose of the regulations that follow. These statements essentially define the “spirit” of the law.

These are important as they guide a Site Plan Review Authority, Special Permit Granting Authority, and courts in their interpretation of the regulations.

The town can select which are most relevant for their circumstances, use them all, and/or write their own.

# Definitions

# List of defined terms

**See the following pages for definition text**

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- Active use
- Back-Lot structure
- By-right
- Floor-to-floor height
- Ground floor
- Ground floor frontage
- Ground floor active use space
- Housing unit
- Leasable area
- Lot coverage
- Mixed-use development
- Office uses, consumer-facing
- Offices uses, non-consumer-facing
- Principal entrance
- Principal structure
- Semi-active amenity uses
- Special Permit
- Upper floor

The definitions subsection allows the Town to get specific about the meaning of key terms without cluttering the main body of the text. When defined words are used within the mixed-use section (and only in this section), they carry the meanings given here.

A town can edit the terms defined in this section, add their own, and/or refer to a definitions section present in the wider zoning bylaw.

See the pages that follow for more on each defined term.

## “Mixed-use development”

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“Mixed-use development” shall mean development on a single parcel containing a mix of residential uses and nonresidential uses, including commercial, institutional, or other uses which are permitted under this section.

A “mixed-use development” is the primary unit of development that is regulated under this section. A mixed-use development that follows the regulations and parameters specified in this section is what becomes allowed in zoning districts.

# “Active use”

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“Active use” shall mean any public or semi-public use that encourages pedestrian activity along the front of a building and utilization of a building during substantial portions of the day on most days. Examples of active uses include but are not limited to:

1. Retail
2. Restaurant, bar, or specialty food services
3. Entertainment uses (such as theaters or amusement arcades)
4. Personal service uses (such as salons, barber shops, or spas)
5. Artist galleries and artist studios, provided a publicly accessible gallery is included
6. Libraries and community centers
7. Publicly facing government services, such as post offices
8. Health and fitness facilities
9. Daycare facilities for any age

Active uses do not include office uses; semi-active amenity uses; housing units; or short-term lodging uses (including hotels, motels, and bed and breakfasts). Office uses and semi-active amenity uses may be included in a Mixed-Use Development by Special Permit or by-right pursuant to Subsections IV.A-D.

This model bylaw uses the broad phrase “active use” to encompass a range of potential uses that are appropriate for the street-facing ground floor of mixed-use buildings. Rather than be overly prescriptive, the model bylaw defines this term broadly to include uses that encourage activity at the front of the building and along the street. It provides examples of what counts as an active use, but “active use” could include other types of uses not listed here.

This text does explicitly exclude some uses that are not active and should not be allowed along the ground floor frontage, including offices and housing.

## “Office uses”

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“Office uses, consumer-facing” shall mean any business or professional offices, medical offices, urgent care facilities, and accessory leasing offices, provided those uses can reasonably expect regular visits of clients and customers. This includes but is not limited to doctors’ offices, dentists, attorneys, financial services, realtors, and others, provided these uses meet the general definition given here.

“Office uses, non-consumer-facing” shall mean any business, professional, medical, or other office uses that do not meet the definition of consumer-facing offices. This includes but is not limited to professional services and administrative service offices with infrequent visits from clients and customers.

This model bylaw defines office uses based on their relationship to consumers. Office-based businesses that create foot traffic from retail-type customers have a different effect on the public realm than offices that are only visited by employees who work there. While consumer-facing office uses are not active uses per se, they can be mixed with active uses on the ground floor frontage without a significant negative impact on the public realm. Their inclusion in a development can help viability, but they should be used judiciously.

Non-consumer-facing office uses are not an appropriate substitute for active uses.

## “Housing unit”

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“Housing unit” shall mean a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

A housing unit is defined here to ensure a mixed-use development’s residential uses are not simply for short-term (vacation) lodging, and rather for long-term independent and (ideally) non-vacation lodging.

## “Semi-active amenity uses”

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“Semi-active amenity uses” shall mean accessory communal areas, amenity areas, or services for the building residents only.

Many (if not most of) today’s medium- to large-scale residential developments include some kind of amenity spaces for residents. This might include gyms, common rooms, game rooms, theaters, libraries, and other such spaces offered for the use of residents and their guests. These spaces can bring liveliness to semi-public areas and discourage “dead space” in multifamily developments, but they are not themselves active uses that encourage the vitality of the public realm.

This model bylaw defines these areas as “semi-active amenity spaces” and regulates their placement in a development vis-a-vis the public realm.

# “By-right” and “Special Permit”

“By-right” shall mean a zoning permitting process wherein development may proceed under the zoning in place at time of application without the need for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval. [By-right permitting shall include a Site Plan Review Process specified in [SPR SECTION OF TOWN'S ZONING OR OTHER LAND USE CONTROL BYLAW], through which the [SPR AUTHORITY] may add reasonable conditions to the site plan but cannot deny the development to proceed.]

“Special Permit” shall mean a zoning permitting process wherein development may proceed only with a Special Permit from the [SPECIAL PERMIT GRANTING AUTHORITY] as specified in [SP SECTION OF TOWN'S ZONING], a process that may result in the approval, approval with conditions, or denial of the development proposal.

Permitting processes are key in encouraging the right kind of development.

- By-right processes, which only involve administrative review for conformance to the law, can provide the most certainty for all parties. This is especially true when backed by planning and engagement that leads predictable, explicit zoning rules.
- Special Permit processes provide flexibility, but increase risks and costs, and therefore can discourage development and decrease affordability. Nonetheless, Special Permit processes can provide flexibility under varied conditions.
- Site Plan Review can act as an in-between, creating certainty around building types and allowed uses, while providing discretion over siting and the building's relationship to the public realm.

Towns should insert the relevant citations for Special Permits in their zoning and, if relevant and desired, Site Plan Review citations in their zoning.

## “Principal structure” and “Back-lot structure”

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“Principal structure” shall mean the structure which fronts a public way or public open space and that is the most visually prominent building on a parcel when viewed from the primary public way or public open space adjacent to that parcel.

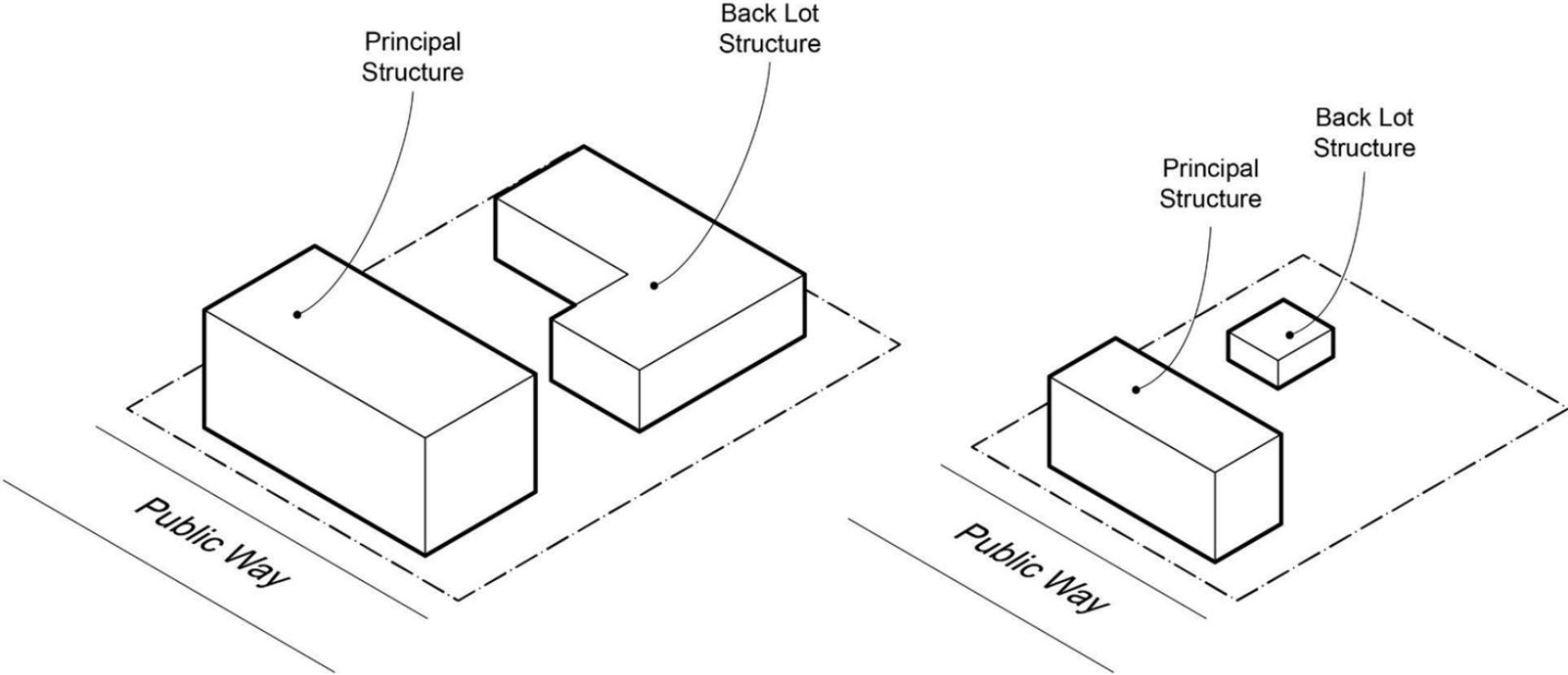
“Back-lot structure” shall mean any building that does not front a public way or public open space and which is not the most visually prominent building on a parcel when viewed from the primary public way or public open space adjacent to that parcel.

In this model bylaw, the principal structure is the building that fronts the street, and the back-lot structure is any building other than that (typically a building behind or to the side of the building fronting the street).

This can include buildings typically thought of as accessory structures (e.g., sheds, operations facilities, communal spaces for residents of the primary structure), as well as buildings with uses that are not incidental to the principal structure’s uses, including additional housing.

These definitions are meant to provide flexibility on potential mixed-use sites (including small parcels and large developments), while ensuring a consistent mixed-use character at the street front.

# Principal Structure vs. Back-Lot Structure



## “Ground floor” and “Upper floor”

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“Ground floor” shall mean the lowest story of a building with a finished floor at or above the finished ground level next to a building at the facade.

“Upper floor” shall mean any full story above the ground story of a building.

This bylaw distinguishes between the ground floor of a building and its upper floors. This distinction is important for uses and dimensions of the development.

For single-structure developments, the different uses permitted under this model bylaw will be located on different floors. The vision for development under this bylaw is to have active uses on the ground floor and housing units on upper floors. Developments with multiple structures may include a more complex mix of uses, but along the public way, the ground floor–upper floor distinction will be important to create an active and walkable environment.

## “Ground floor frontage” and “Ground floor active use space”

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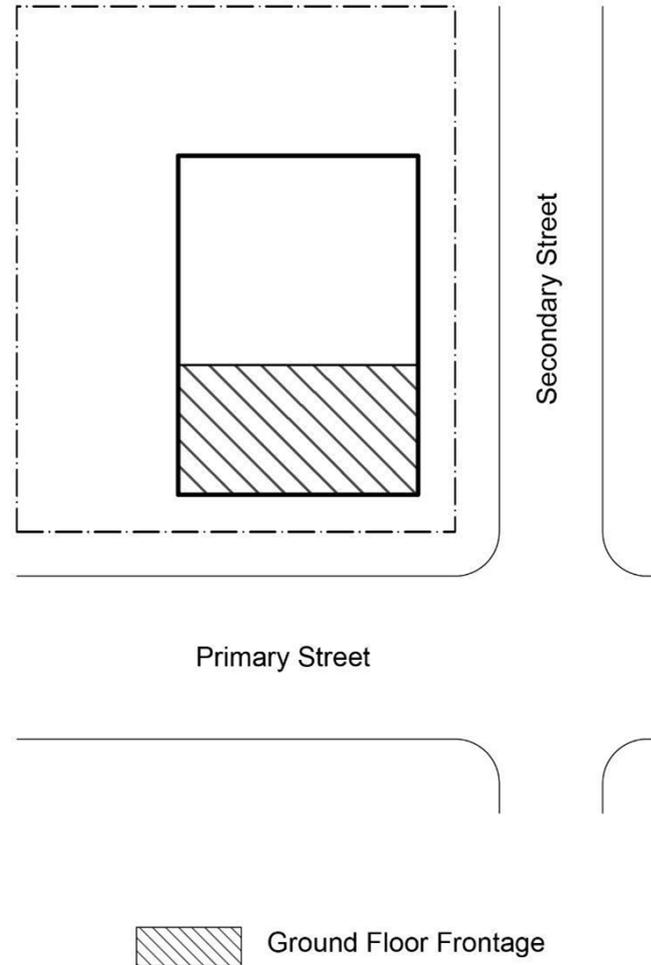
“Ground floor frontage” shall mean the ground floor facade of the principal structure which faces a public way or public park or, in the case of a corner lot, the facade which faces the more prominent public way or public park.

“Ground floor active use space” shall mean an individually leasable non-residential unit located on the ground floor and that is intended primarily for active uses.

The ground floor frontage is defined so as to regulate the public and semi-public areas of the new development and to create a more active and walkable public realm. The ground floor active use space is defined in order to make those spaces viable for commercial uses, especially smaller-scale commercial uses that can grow the local economy and add to the character of the community.

Generally, this bylaw is trying to avoid developments that only include non-residential spaces to fulfill the letter of the law but are not commercially viable.

# Ground floor frontage



## “Leasable area”

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“Leasable area” shall mean the net area used by an occupant, not including public or semi-public circulation areas and building operation and mechanical areas, except where those mechanicals are solely related to a single occupant.

The leasable area of a ground floor active use space is defined to help ensure those spaces are commercially viable and can gain active use tenants.

## “Lot coverage”

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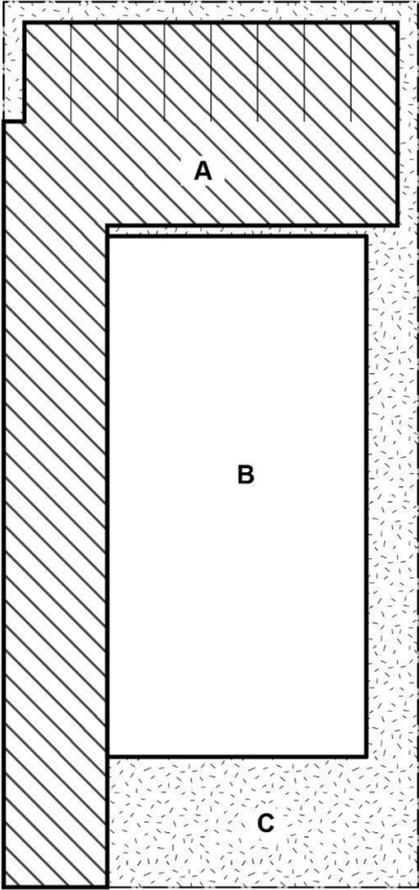
“Lot coverage” shall mean portions of a development where the land is covered by an impervious surface, such as buildings, roads, driveways, or other paved or hardscaped areas.

Lot coverage is defined in this bylaw to include all impervious surfaces. Because lot coverage regulations are some of the most critical for the viability of development in many Cape towns' zoning codes, this bylaw is explicit in how it defines and manages lot coverage.

# Lot coverage

**Lot Coverage = A+B**

- A  Parking and Drive Aisle
- B  Building Footprint
- C  Planting Zone



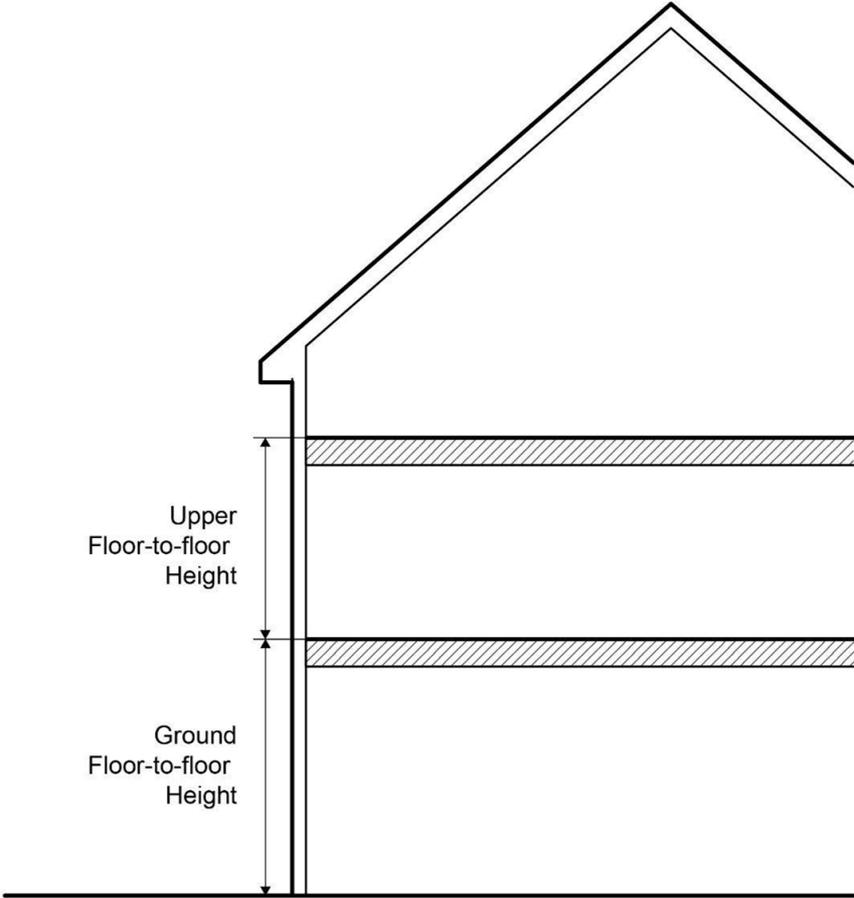
# “Floor-to-floor height”

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“Floor-to-floor height” is the height of the ground floor and upper floors of a building measured vertically from the surface of the finished floor to the surface of the finished floor above, at all points.

Floor-to-floor height is a measure of the height of stories. Regulating the height of each story is important to ensure every floor is marketable to its respective uses—the ground floor to commercial tenants and the upper floors to residents.

# Floor-to-floor height



## “Principal entrance”

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“Principal entrance” shall mean the addressed entrance to a building or commercial space.

Principal entrances are important in managing the relationship between a mixed-use development and the public realm. This bylaw attempts to promote an active and walkable public realm along the ground floor frontage of a development, and therefore regulates placement of principal entrances.

# Application

# Application

## Geographically, where is this section relevant?

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The Application subsection defines where (which zoning districts) this bylaw will enable mixed-use development. Towns are given two options for structuring this subsection.

For communities with a **use table** in their zoning bylaw, **the first option** allows the town simply to reference that table. In this case, a Town Meeting warrant adopting this model bylaw should also amend the use table to allow mixed-use development subject to the provisions of this section.

**The second option** enables towns **without a use table**, or who otherwise wish to define the application in the main text, to do so. It says mixed-use development is allowed by-right or by Special Permit in town-defined districts and nowhere else.

Note that this section is about where mixed-use development is allowed *overall*. Uses *within* a mixed-use development are regulated by the “Uses” subsection.

# Application: Option 1

## Use Table Option

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- A. Mixed-use developments that follow the provisions of this section shall be allowed according to the use table given in [INSERT USE TABLE SECTION].

This provision allows mixed-use development according to specifications in a use table. As with other uses (and with Application Option 2), an implementing town will need to decide where and by what process (by-right, by Special Permit) mixed-use developments will be allowed.

# Application: Option 2

## In-Text Option

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- A. Mixed-use developments that follow the provisions of this section shall be allowed by-right [and subject to Site Plan Review] in the following districts: [INSERT BY-RIGHT DISTRICT NAMES].
- B. Mixed-use developments that follow the provisions of this section shall be allowed by Special Permit [and subject to Site Plan Review] in the following districts: [INSERT SPECIAL PERMIT DISTRICT NAMES].
- C. Notwithstanding other provisions of this zoning bylaw, mixed-use developments that follow the provisions of this section shall not be allowed in districts not specified in this subsection.

This option allows mixed-use developments by-right and by Special Permit without referencing a use table.

An implementing town will need to decide which districts will allow mixed-use development by-right and which will allow it by Special Permit.

An implementing town will also need to define if and how Site Plan Review is applied to mixed-use developments.

Because there are slight differences in how each town approaches Special Permits and Site Plan Review, and because needs will vary by geography, this model bylaw does not offer further guidance on how and where these permitting approaches should be applied.

# Uses

# Uses

## **What is allowed within a mixed-use development?**

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The Uses subsection defines what land uses are allowed *within* a mixed-use development, specifying different uses by floor and its relationship to the public realm.

Note that the Application subsection defines where mixed-use development is allowed *overall*.

# Organization of Use Subsections

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- Principal Structure
  - Ground floor, fronting public way
  - Ground floor, not fronting public way
  - Upper floors
  - Below-ground areas
- Back-Lot Structures
- Within each
  - By-right
  - By Special Permit
  - Not Permitted

The guiding principles for uses within mixed-use developments are that (a) the ground floor frontage should be regulated to encourage walkability and activity, and (b) mixed-use developments should include some form of housing production.

To that end, this model bylaw specifies different rules for primary and back-lot structures, as well as the ground floor frontage, the ground floor not fronting a public way/open space, and the upper floors of the primary structure. The use of the ground floor frontage is regulated closely, with other areas allowing a wider range of uses.

The use rules are also divided into uses allowed by-right, uses allowed by Special Permit, and disallowed uses. This model bylaw tries to encourage—through by-right permitting—the uses most closely aligned to its vision of mixed-use development. The Special Permit process is used to provide flexibility for developments that, for one reason or another, must stray from the idealized conditions imagined through the by-right uses.

# Ground floor uses

## Fronting Public Way or Public Open Space

- By-right
  - Active uses
  - [Consumer-facing offices]
  - Entryways/lobbies
  - Semi-active amenities
- By Special Permit
  - Non-consumer-facing offices
- Not permitted
  - Housing units
  - Parking/drive lanes
  - Auto-oriented uses
  - Building ops/mechanicals
  - Other non-public uses

The use rules governing the ground floor frontage are meant to encourage active uses as much as possible. By-right, developers can build spaces meant for active uses, consumer-facing offices, and semi-active spaces serving the upper floor residents (entrances, accessory community/amenity spaces). The proportion of active/consumer-facing office vs. semi-active spaces and circulation is governed by the dimensional regulations. To the extent physically possible, a development should dedicate the ground floor frontage to active uses, but the by-right permitting allows for flexibility to meet the needs of site and market conditions. Including consumer-facing offices may reduce the overall ground floor activity, but it may also provide more activity across the hours of the day and make projects more financially viable.

Non-consumer facing office uses are discouraged but allowed by Special Permit to provide necessary flexibility. Decidedly non-active uses (housing units, building mechanicals) or uses targeting automobiles are not allowed, since these would go against the purpose of the bylaw. Providing some flexibility in uses could be important as market forces change, but towns will want to carefully consider where that flexibility makes sense.

# Ground floor uses

## NOT Fronting Public Way or Public Open Space

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- By-right
  - Active uses
  - Office uses (any)
  - Semi-active amenity uses
  - Circulation
  - Building ops/mechanicals
  - Accessory storage
- By Special Permit
  - Housing units
- Not permitted
  - n/a

Ground floor uses NOT at the ground floor frontage are permissive. Typically, this part of a mixed-use building might be more active use space, offices, and/or circulation and semi-active amenity areas for upper-floor residents.

As written, the model bylaw does not *disallow* any uses for the ground floor not fronting a public way or public open space, however it does reserve space for towns to disallow uses as they see fit.

# Upper floors

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- By-right
  - Housing
  - Semi-active amenity uses
  - Accessory storage
  - Circulation
  - Building ops/mechanicals
- By Special Permit
  - Active uses (2nd floor only)
  - Office uses (2nd floor only)
- Not permitted
  - [reserved]

This model bylaw proposes that the upper floors of the principal structure are primarily meant for housing and ancillary uses serving residents of that housing. It allows those residential uses by-right. However, it is recognized that flexibility in second-story uses and the addition of second-story active or office uses can be advantageous, so those are allowed on the second floor by Special Permit.

# Considerations for Special Permits for upper floor active uses

## **Ensuring development meets the spirit of the model bylaw**

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The upper floor Special Permit allowances could unintentionally create a way for primary non-residential developments to be permitted under this bylaw. The definition of mixed-use development used in this model mandates the inclusion of residential uses, but it does not state how much. A single, two-story mixed-use building with a mostly non-residential second floor and a small residential portion is technically possible under these Special Permit provisions. However, that development would not be in the spirit of this bylaw, and Special Permit Granting Authorities should be wary of such proposals. Any development trying to include second-floor active or office uses should still include proportionate residential uses either above the second floor or in accessory buildings.

# Below-ground

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- By-right
  - Semi-active amenity uses
  - Accessory storage
  - Circulation
  - Building ops/mechanicals
  - Parking
- By Special Permit
  - Active uses (provided entrance from public way)
  - Office uses (any)
- Not permitted
  - Housing units

This model bylaw's vision for below-ground spaces (when they are built) is for uses that allow a building to function, either building operations, parking, or uses ancillary to the upper floor housing units. These uses are allowed by-right.

It is also recognized that below-ground spaces (like with second stories) can be used for active or office uses in a way that can be desirable. These uses are allowed by Special Permit, since design and circulation must be calibrated to the site and needs of the community.

However, below-ground housing units are generally to be avoided, and so this model bylaw does not permit them.

# Back-lot structures

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- By-right
  - Semi-active amenity uses
  - Accessory storage
  - Circulation
  - Building ops/mechanicals
  - Parking
- By Special Permit
  - Active uses (provided entrance from public way)
  - Office uses (any)
  - Housing units
- Not permitted
  - Auto-oriented uses

Back-lot structures encompass a variety of potential buildings in a mixed-use development, since they are any building not fronting the (primary) public way. This includes small buildings containing ancillary uses (building mechanicals, amenity spaces, etc.) and larger buildings containing non-ancillary uses that are located off the public way on a relatively large site. As such, the allowed uses in back-lot structures are permissive.

Uses ancillary to housing are allowed by-right, and housing, active uses, and office uses are allowed by Special Permit. These are allowed by Special Permit only because of the variability in back-lot structures and thus the variable appropriateness of those structures for substantive use.

Auto-oriented uses are not allowed in back-lot structures, as these uses often dominate the use of a site and circulation between the public way and the site. This aspect makes them inappropriate for the mixed-use development encouraged by this bylaw.

# Development Intensity

## Regulating development intensity

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Development intensity is the regulation of how much development is allowed, how many housing units are allowed, how much commercial space is allowed, etc. In most zoning districts on the Cape, development intensity is regulated by some combination of site conditions, allowed uses, dimensional regulations, and parking regulations. In some cases, specific intensity regulations exist for a zoning district, usually expressed as housing units per acre (and in fewer cases, as a floor area ratio).

# Development Intensity

## Defer to zoning district rules

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- A. If the underlying zoning district regulations specify minimum or maximum residential or nonresidential development intensity (including but not limited to specifications for residential units per acre or floor area ratio), those regulations shall govern the development intensity of a mixed-use development permitted under this section.

This model bylaw creates its own use, dimensional, and parking regulations. In general, those may be sufficient to govern development intensity, but this bylaw **defers to the zoning district on explicit regulation of development intensity.**

# Development Intensity

## Optional SP to ensure development viability

- B. [This is an optional provision for communities that do not wish to align their residential intensity requirements with standard mixed-use building types.]

Where the zoning district regulations governing a proposed mixed-use development site specify minimum or maximum residential or nonresidential development intensity and those specifications prevent the practical mixed-use development of that site where it would be otherwise permitted, those development intensity regulations may be waived for the given site by and at the discretion of the [SPECIAL PERMIT GRANTING AUTHORITY] through a Special Permit process, as specified in [SPECIAL PERMIT SECTION].

However, many explicit development intensity regulations would not allow for standard mixed-use development types, especially in Village Center areas where parcels tend to be smaller. (See the next pages for examples of mixed-use densities.

The **optional provision B** in this subsection **allows a town to allow reasonable mixed-use developments by Special Permit where the underlying district's development intensity rules make mixed-use development unviable.**

# Example mixed-use densities



Hyannis Main Street

10 units on ~.38 acres  
~ 26 units per acre



Providence Manton Ave

8 units on ~.26 acres  
~ 30 units per acre

## Example mixed-use densities



Summer Street,  
Manchester-by-the-Sea

39 units on ~2.1 acres  
~ 18 units per acre



Falmouth Main Street

3 units on ~0.3 acres  
~10 units per acre

## Development intensity and utilities

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Zoning cannot override state environmental regulations governing water and wastewater provision. Even if local zoning allows relatively dense mixed-use development, if the area is not sewerred, septic rules will restrict the development intensity on a site-by-site basis and based on soil conditions and number of bedrooms.

# Dimensional Requirements

## Dimensional regulations

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Dimensional regulations govern the overall bulk, form, and placement of buildings on a site. As noted previously, they also have an impact on development intensity.

This model bylaw is meant to create more opportunities for developments with a walkable and active public realm. Ideally, these regulations would activate infill lots in the Cape's Village Centers or guide the redevelopment of disused auto-oriented commercial areas. The dimensional regulations included here are meant to encourage that kind of development.

## Relationship to zoning district

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Mixed-use developments permitted under this section shall follow the following dimensional regulations, which supersede regulations specified by the zoning district in which the development is located. Where dimensional regulations are not specified here, the regulations of the zoning district shall apply.

Because this is a model bylaw, it is trying to work in as many conditions as possible. The dimensional regulations in districts considered for mixed-use development may or may not be conducive to active, walkable, mixed-use development. Regardless of the existing zoning, though, this model bylaw has to work as easily as possible. In order to make mixed-use development viable and well-designed, this model bylaw overrides the dimensional requirements of existing zoning, but defers to the underlying zoning where no new rules are specified.

# Lot Size / Coverage

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- No minimum lot size
- Lot coverage
  - Land area less than 20,000 sf:  
No maximum lot coverage
  - Land area at least 20,000 sf:  
Maximum lot coverage = 80% or  
the underlying zoning district's,  
whichever is greater.

The minimum lot size required under zoning, especially those for multifamily development on the Cape, are unlikely to allow mixed-use development following the vision of this bylaw. This model bylaw eliminates them entirely to encourage infill, with the knowledge that the market will not be overly attracted to small or abnormal parcels and that other regulations will continue to govern development intensity.

Maximum (impervious) lot coverage requirements are also eliminated for small lots and set to at least 80% for larger lots (deferring to the zoning district if it allows more than 80%). Like the elimination of lot sizes, this is meant to make smaller infill mixed-use development viable.

# Active frontage size

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- At least [25% or 50%] for buildings with less than 50 feet of frontage are active uses or consumer-facing offices
- At least [25% or 50% or 70%] for buildings with 50+ feet of frontage are active uses or consumer-facing offices

Ensuring the ground floor frontage brings vitality to the public realm is key for this bylaw. To do this, an adequate amount of frontage must be dedicated to active uses, while ensuring the market can support leasing of those spaces.

Towns must choose their minimum active frontage, depending on the market and community preferences for new development. Village Center mixed-use developments tend to have 50%-80% of their ground floor frontage dedicated to active uses, with the rest used for upper floor entrances/circulation. Such a high percentage may be difficult to make physically work in smaller buildings. Additionally, large residential developments in suburban retrofit contexts may not be able to support that much active retail, and may be better suited to smaller spaces. The town should consider the market and character where it is allowing mixed-use development and set its requirement accordingly.

# Example active frontages



Hyannis Main Street

90% active frontage



Providence Manton Ave.

73% active frontage

# Example active frontages



Summer Street,  
Manchester-by-the-Sea

69% active frontage  
(+ 20% medical office)



Falmouth Main Street

58% active frontage

# Active space size

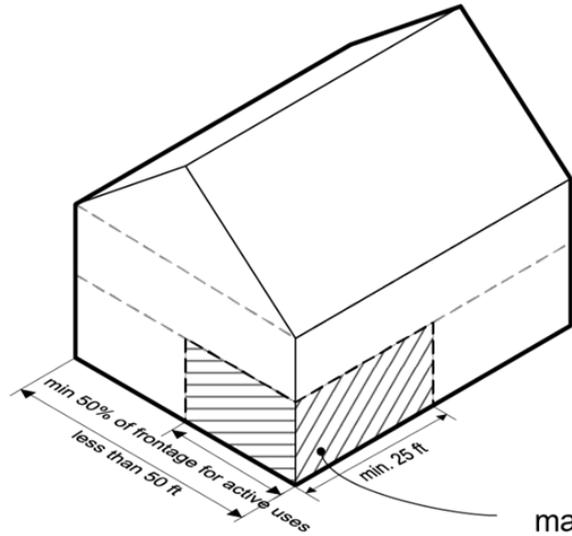
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- 25-foot minimum depth for active use spaces
- Max leasable area per space is 5,000 sf by-right, or more by Special Permit

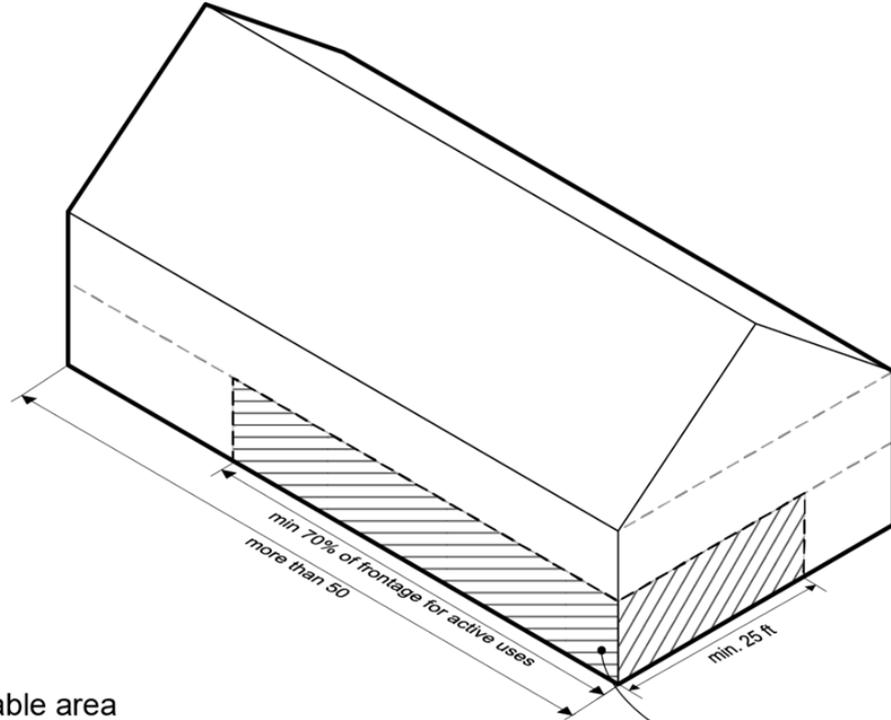
Part of ensuring a market-ready commercial ground floor that adds to the character of Cape Cod towns is requiring (a) that ground floor active uses are of a usable size and not cursory, and (b) that they are not so large that they encourage inappropriate formula retail.

To do this, this bylaw sets a minimum depth of 25 feet (to ensure the spaces' marketability to commercial tenants), and a 5,000 sf maximum leasable area for each individual ground floor active use space. The maximum leasable area of 5,000 square feet is a reasonable footprint for a mid-sized food service business, but is generally too small for a formula retail business. Developers and potential commercial tenants can seek a Special Permit to allow for larger footprints in the ground floor active use spaces.

# Example minimum active frontages (using 50% and 70%) and other active use space dimensions



max. leasable area per space is 5,000 sf



max. leasable area per space is 5,000 sf

 Active Uses

# Floor heights

---

- Ground floor height
  - 13-15 feet in Village Center areas
  - 14-18 feet in suburban retrofit contexts
- Upper floor height
  - 9-11 feet

This bylaw is written to discourage residential developers from including cursory but un-leasable commercial spaces, and for commercial developers from building cursory but unmarketable housing units. In both cases, inappropriately low floor heights could become an issue for marketability. To tackle this issue, this bylaw sets minimum and maximum heights for each floor (defined as the floor-to-floor height given in the definitions section).

Since the upper floors are intended to be primarily residential, the floor heights are a standard 9-11 feet. The ground floor heights are set based on character. Ground floor heights of 13-15 feet would match the historic character of many Village Center areas, while the heights of 14-18 feet would be standard in contemporary mixed-use development.

# Building heights

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- Building height
  - Minimum two stories
  - Maximum [2, 3, or 4].5 stories
  - Minimum two floors (with upper floor being at least 70% the footprint of the ground)

The height of buildings is regulated through the number of stories, rather than by the total height in feet. The model bylaw sets a minimum height of two stories and a maximum height of 2.5, 3.5, or 4.5 stories, chosen by the town based on the character of the existing area and the goals of the community. The minimum two stories is to ensure the mixed-use bylaw is not used for single-story retail development. The half-story included in each maximum height is to allow dormer windows typical of Cape Cod's architecture.

Because floor heights are regulated in feet, a maximum building height in feet is implied, but not set directly. For instance, in a Village Center district, the maximum ground floor height is 15 feet. The maximum upper floor height is 11 feet. If the town set a maximum building height at 2.5 stories, the implied maximum height in feet would be 31.5 feet (15+11+5.5). The market may aim to use floor height minimums, however, resulting in a height of 26.5 feet. Some developments may choose floor heights for other reasons, resulting in yet more variation, and a more naturally varied set of mixed-use developments.

# Upper story footprint

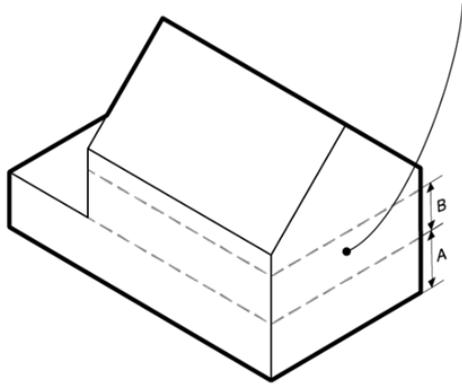
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- All upper floors (except the top half-story that allows for dormer windows) must have a footprint at least 70% of the ground floor.

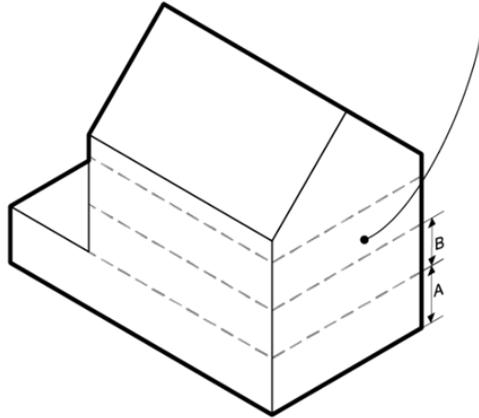
As noted previously, this model bylaw is trying to prevent commercial developers from building cursory upper floor residential spaces over single-story commercial buildings. This provision ensures upper floors are (at least) 70% the size of ground floors. By mandating this much space be built, it is much more likely for the upper floors to be used for viable and significant residential uses.

# Heights and upper floor footprints

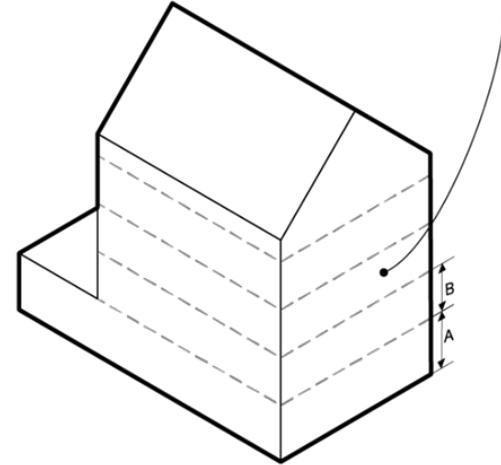
upper floor being at least 70%  
the footprint of the ground



upper floor being at least 70% the  
footprint of the ground



upper floor being at least 70%  
the footprint of the ground



## A - Ground Floor Height

- 13-15 feet in Village Center areas
- 14-18 feet in suburban retrofit contexts

## B - Upper floor height

- 9-11 feet

# Setbacks

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- Side and rear setbacks governed by zoning district
- Minimum and maximum front setbacks are set based on whether it is a Village Center or Suburban Retrofit context, what the zoning district specifies, and the existing development nearby.

This bylaw sets out a framework for governing the setback of buildings from the street. The goal is, as always, to create an active and walkable public realm at the ground floor fronting the public street or open space.

Since the side and rear setbacks are less relevant here, the bylaw defers to the rules of the zoning district.

The front setback is more critical to this goal. Here the bylaw wants to defer to the existing character of the area or the existing zoning, provided one or both encourage the type of walkability sought here.

# Front Setback

## Village Center districts

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- Minimum
  - Lesser of
    - 5 feet
    - Zoning district minimum
    - Average front setback for that block
- Maximum
  - Lesser of
    - 15 feet
    - Zoning district maximum
    - Average front setback for that block

In Village Centers, the default target front setback is 5-15 feet.

If the underlying zoning allows for smaller front setbacks (like zero-lot-line development), this bylaw defers to that regulation.

Also, if the existing buildings on the development's block have smaller front setbacks, the bylaw defers to the average setback on that block.

# Front Setback

## Suburban retrofit districts

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- Minimum
  - Lesser of
    - 15 feet
    - Zoning district minimum
    - Average front setback within a quarter-mile
- Maximum
  - Lesser of
    - 25 feet
    - Zoning district maximum
    - Average front setback within a quarter-mile

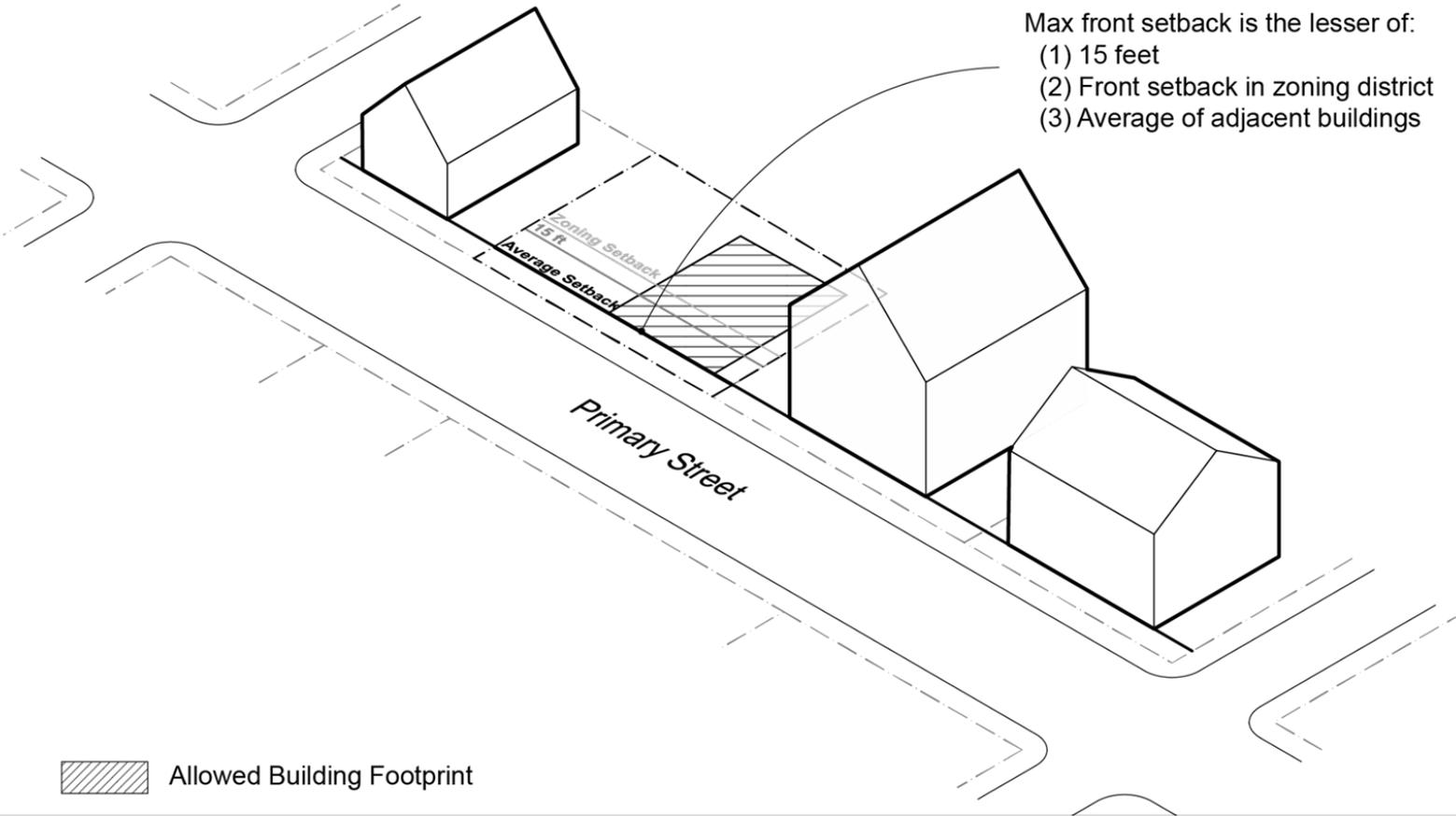
In Suburban Retrofit contexts, the default target front setback is 15-25 feet.

If the underlying zoning allows for smaller front setbacks, this bylaw defers to that regulation.

Also, if the existing buildings on the in the vicinity of the development (within a quarter-mile) have smaller front setbacks, the bylaw defers to the average setback in that area.

# Front setback example: maximum setback in Village Center area

- Max front setback is the lesser of:
- (1) 15 feet
  - (2) Front setback in zoning district
  - (3) Average of adjacent buildings



 Allowed Building Footprint

# Back-lot structures

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- Defer to the base district's rules on accessory structures
- If no rules for accessory structures exist, use this bylaw's dimensional regulations
- Back-lot structures are never taller than primary structures

The regulation of back-lot structures is meant to be as flexible as possible while conforming to the needs of the site and local context. Depending on the development, these structures could be small accessory buildings for building operations or they could be significant buildings with housing or other uses.

Since most zoning districts already have dimensional regulations for accessory structures, this bylaw defers to those. However, if there are no existing regulations, back-lot structures can conform to the rules in this model bylaw.

# Nonconforming structures

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- Special Permit to waive dimensional requirements for redevelopment of nonconforming structures.

“Nonconforming structures” are existing buildings that could not be legally built under the current zoning. Many nonconforming structures exist in historic areas, as zoning laws have come to encourage less dense development. Some buildings may violate the relatively permissive regulations in this bylaw.

If a nonconforming building is being redeveloped, the developers can seek permission to ignore this bylaw’s dimensional regulations, so that the redevelopment remains legal and historic buildings do not need to be demolished.

# Parking Requirements

# Auto parking

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<b>Use</b>	<b>Automobile parking maximum</b>
Housing unit	1.25 spaces / unit, rounded up
Active use	2 spaces / 1k sf, rounded down
All other uses (except circulation)	2 spaces / 1k sf, rounded down

This model bylaw sets a parking maximum for automobiles. Generally, the amount of parking required by zoning and/or the amount of parking assumed to be needed by developers often overestimates how much parking is needed. This can limit the viability of development, especially of the kind envisioned by this model bylaw.

The auto parking rules set specific maximums for residential and non-residential uses.

# Increasing the maximum

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- In [districts decided by the town], use a [Special Permit/parking waiver] to increase the allowable parking. This decision must be based on demonstrated need and account for the timing of peak demand, age/demographics of residents/customers, and the availability of parking alternatives.

Through a discretionary process, parking may be increased by the Special Permit Granting Authority (SPGA). Towns can make this option available only in certain districts, and must decide if increasing the parking requires a Special Permit or a parking waiver process (if the latter already exists in that town).

The SPGA must consider all factors when considering an increase, including whether on-street or municipal parking exists nearby.

# Bike parking

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<b>Use</b>	<b>Bicycle parking requirement</b>
Housing unit	1 space / unit, rounded up
Active use	1 space / 1k sf, rounded down
All other uses (except circulation)	1 space / 1k sf, rounded down

In addition to auto parking maximums, this bylaw sets bicycle parking minimums, in order to encourage non-auto transportation to and from mixed-use developments.

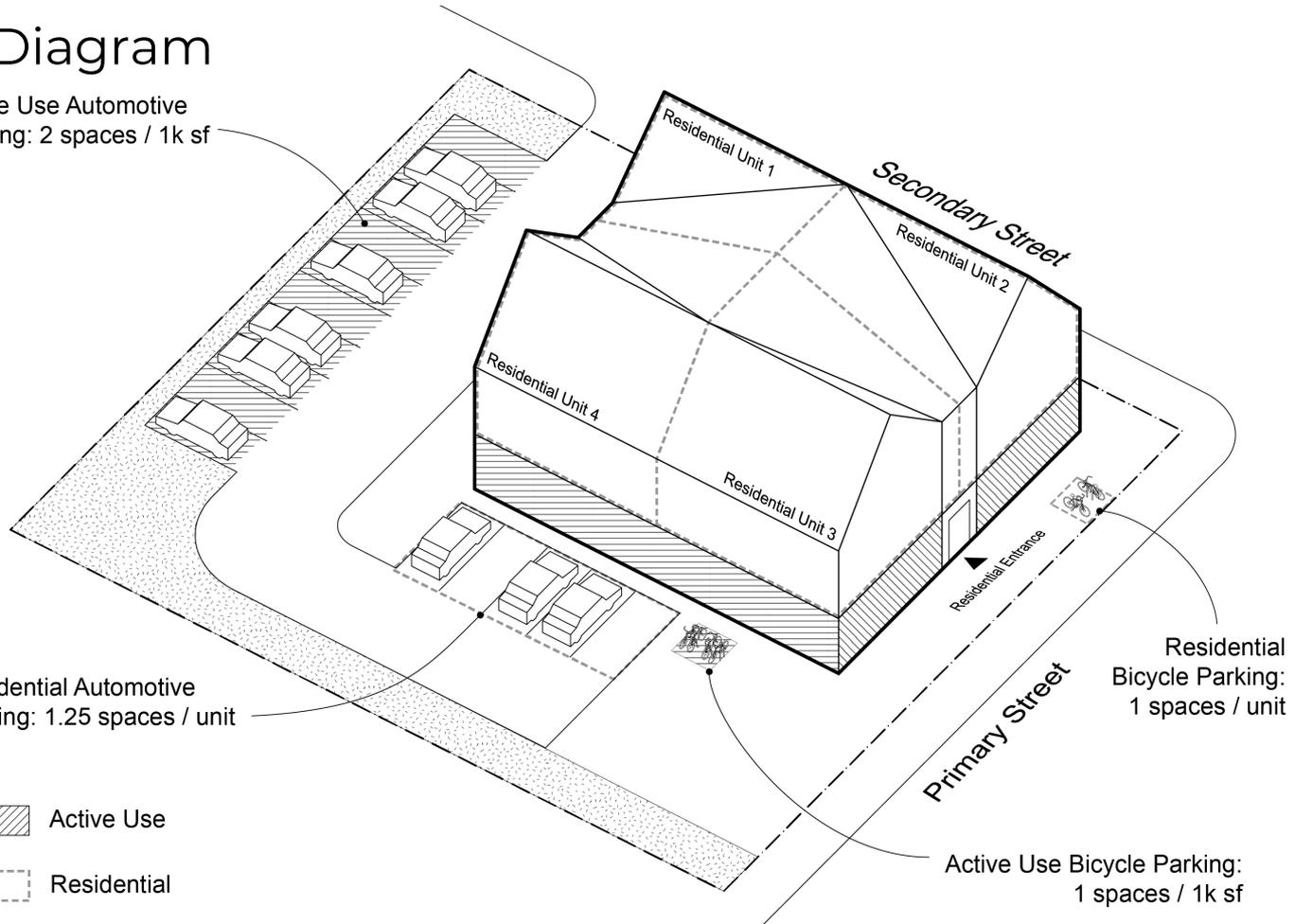
# Parking Diagram

Active Use Automotive  
Parking: 2 spaces / 1k sf

Residential Automotive  
Parking: 1.25 spaces / unit

 Active Use

 Residential



# Site Planning

# Site Planning

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Site planning is the aspect of design that deals with drainage; landscaping; the orientation and dimensions of entrances and exits, buildings, internal pathways, and streets; automobile access; and more. The decisions of site planning occur within the rules dictated by use, dimensional, and parking regulations.

This part of design is highly site-specific, so standards and guidelines tend to work better than prescriptive rules.

# Principles

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- Promote a walkable and vibrant public realm along a public way or public open space.
- Emphasize the connection between public ways and open spaces and the uses of the building.
- Promote the active use of any space between the ground floor frontage and public right-of-way.
- Minimize the visual and physical impact of parking facilities, primarily from the street in front of the site and secondarily from the side and rear, through building placement and context-appropriate landscaping treatments.

The bylaw provides these guiding principles for site planning. Since site planning is heavily site-specific and tends to involve many trade-offs, the principles can be used to aid design decisions—both for architects and town staff or boards overseeing development.

# Standards

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- Parking behind the principal structure, or if necessary, to the side.
- Loading facilities not at the front, preferred at the rear
- Automobile access from the side or rear preferred.
- Screen parking with landscaping
- Bicycle parking near the principal entrances
- Ground floor active use spaces have principal entrances along the ground floor frontage
- Principal entrance to housing at front, side, or rear
- Exterior stairs to residential housing on side or rear

The bylaw provides these standards to guide the implementation of the site planning principles. In most cases, these should be relatively easy to accomplish. When a site design puts these standards at odds with one another, the site planning principles can be used to make decisions.

# Additional Housing Provisions

# Age Restrictions

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- No age restrictions placed on any housing units in mixed-use developments.

Multifamily development is often restricted to 55+ or 65+ communities. Such restrictions create more complexity for development, and they also leave housing need and demand for others unaddressed. Age restrictions would be inappropriate in mixed-use developments envisioned by this bylaw, and they should be prohibited.

# Long-Term Occupancy

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- For any mixed use development permitted through this section, all housing units made available for rent must be rented on terms of not less than [ONE TO SIX] months, except by Special Permit through the process specified in [SPECIAL PERMIT SECTION], regardless of whether the development is otherwise allowed by-right or by Special Permit.

The Cape has a severe need for broadly affordable long-term housing, as well as affordable housing options for seasonal workers. Communities can include provisions for homes in mixed-use developments to be rented for long-term occupancy.

Implementing towns will need to decide on a minimum length of occupancy. Restrictions of 1-3 months will allow seasonal workers to occupy the homes on relatively short (but not typical vacation-length) leases. Restrictions of six months (or more) would encourage year-round leases, but preclude seasonal worker housing. In all cases, the implementing town will need to monitor and enforce these restrictions.

# Conflicts and Severability

## Conflicts and Severability

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These subsections aid in legal interpretation, whether as entities in the real estate market begin the implementation process or if conflicts were to arise about the meaning of this bylaw in context.

# Conflicts

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Unless otherwise stated, the requirements of this section shall apply to uses and structures permitted under the regulations of this section. In the event of a conflict, the regulations of this section shall apply.

The provisions of this bylaw, by default, trump all other provisions.

# Severability

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The provisions of this section are severable. If any court of competent jurisdiction shall invalidate any provision herein, such invalidation shall not affect any other provisions of this section. If any court of competent jurisdiction shall invalidate the application of any provision of this section to a particular case, such invalidation shall not affect the application of said provision to any other case within the Town.

If there is an issue with one section of the law and it can no longer be enforced, the rest of the law remains intact.

# Next Steps

## Where to go from here?

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This guide hopefully sheds insight into the model bylaw text. If a town wants to implement mixed-use zoning in one or more zoning districts, staff and board members should consider the community's goals for these areas, and adapt this model bylaw to align with those goals.

The bylaw can serve as a blueprint for implementing mixed-use zoning, and it can readily be adopted with a few key decisions by the town. However, it can also simply be inspiration, and towns can use the text and the thinking behind it to arrive at their own unique approaches to mixed-use zoning.

# A Mixed-Use Model Bylaw for Cape Cod Towns

This model bylaw intends to be an example first draft of a zoning amendment that allows mixed-use development (residential over retail) for Cape Cod towns. This model bylaw envisions a range of mixed-use developments that could be appropriate in certain areas on Cape Cod. From small infill shop-front buildings to larger redevelopments of no longer used or underutilized commercial sites, this bylaw can be adapted to encourage a range of mixed-use options. Local policymakers can use this model bylaw as a starting point when considering their town's needs and desires for mixed-use development, including locations where it might be appropriate. Towns should also consider the structure of their zoning bylaw.

Towns may want to use the bylaw in **"Village Center"** type areas with an existing and historic mixed-use character and/or in **"Suburban Retrofit"** contexts, where older automobile-oriented commercial sites are likely to be redeveloped in the coming years. The model bylaw references these contexts and includes provisions specific to each context as well where they may differ.

The technical specifications in this model bylaw can fit into and work well with existing bylaws. Users should refer to the accompanying guide to understand the reasoning behind the bylaw's provisions. Some areas of the bylaw provide a range of options from which a town should select its preference, e.g., bylaw structure or appropriate scale of redevelopment. [Places where towns must make decisions or insert language about their existing code are called out in brackets and in pink text.]

The model bylaw was drafted in conjunction with the Cape Cod Commission by Outwith Studio; Utile; and attorneys Blatman, Bobrowski, Haverty & Silverstein, with funding from a Massachusetts Executive Office of Energy and Environmental Affairs Planning Assistance Grant.

## SECTION [X]. Mixed-Use Development

- I. **Purpose.** The purpose of this section is to allow and regulate development that includes mixed-use residential development. By allowing mixed-use development, this section aims:

[Towns can pick or choose among these purpose statements, and/or add their own.]

- A. To promote public health, safety, and welfare by encouraging active community life.
  - B. To promote economic vitality and greater diversity of housing opportunities.
  - C. To mitigate traffic congestion by promoting housing proximate to compatible commercial uses.
  - D. To provide housing for people at all stages of life and all levels of income.
  - E. To enable the creation of livable, walkable neighborhoods in the town's commercial districts.
  - F. To encourage the continued use of historic village centers.
  - G. To promote consistency, quality, and flexibility in site layout and building design.
  - H. To promote the creation of affordable and attainable housing opportunities for all incomes and ages by increasing residential density and mixed-use where appropriate.
- II. **Definitions.** Within this section, the following terms shall have the following meanings:
- A. "Active use" shall mean any public or semi-public use that encourages pedestrian activity along the front of a building and utilization of a building during substantial portions of the day on most days. Examples of active uses include but are not limited to:
    - 1. Retail
    - 2. Restaurant, bar, or specialty food services
    - 3. Entertainment uses (such as theaters or amusement arcades)
    - 4. Personal service uses (such as salons, barber shops, or spas)
    - 5. Artist galleries and artist studios, provided a publicly accessible gallery is included
    - 6. Libraries and community centers
    - 7. Publicly facing government services, such as post offices

8. Health and fitness facilities
9. Daycare facilities for any age

Active uses do not include office uses; semi-active amenity uses; housing units; or short-term lodging uses (including hotels, motels, and bed and breakfasts). Office uses and semi-active amenity uses may be included in a Mixed-Use Development by Special Permit or by-right pursuant to Subsections IV.A-D.

- B. "Back-lot structure" shall mean any building that does not front a public way or public open space and which is not the most visually prominent building on a parcel when viewed from the primary public way or public open space adjacent to that parcel.
- C. "By-right" shall mean a zoning permitting process wherein development may proceed under the zoning in place at time of application without the need for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval. [By-right permitting shall include a Site Plan Review (SPR) Process specified in [SPR SECTION OF TOWN'S ZONING OR OTHER LAND USE CONTROL BYLAW], through which the [SPR AUTHORITY] may add reasonable conditions to the site plan but cannot deny the development to proceed.]
- D. "Floor-to-floor height" is the height of the ground floor and upper floors of a building measured vertically from the surface of the finished floor to the surface of the finished floor above, at all points.
- E. "Ground floor" shall mean the lowest story of a building with a finished floor at or above the finished ground level next to a building at the facade.
- F. "Ground floor frontage" shall mean the ground floor facade of the principal structure which faces a public way or public park or, in the case of a corner lot, the facade which faces the more prominent public way or public park.
- G. "Ground floor active use space" shall mean an individually leasable non-residential unit located on the ground floor and that is intended primarily for active uses.

- H. "Housing unit" shall mean a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
- I. "Leasable area" shall mean the net area used by an occupant, not including public or semi-public circulation areas and building operation and mechanical areas, except where those mechanicals are solely related to a single occupant.
- J. "Lot coverage" shall mean portions of a development where the land is covered by an impervious surface, such as buildings, roads, driveways, or other paved or hardscaped areas.
- K. "Mixed-use development" shall mean development on a single parcel containing a mix of residential uses and nonresidential uses, including commercial, institutional, or other uses which are permitted under this section.
- L. "Office uses, consumer-facing" shall mean any business or professional offices, medical offices, urgent care facilities, and accessory leasing offices, provided those uses can reasonably expect regular visits of clients and customers. This includes but is not limited to doctors' offices, dentists, attorneys, financial services, realtors, and others, provided these uses meet the general definition given here.
- M. "Office uses, non-consumer-facing" shall mean any business, professional, medical, or other office uses that do not meet the definition of consumer-facing offices. This includes but is not limited to professional services and administrative service offices with infrequent visits from clients and customers.
- N. "Principal entrance" shall mean the addressed entrance to a building or commercial space.
- O. "Principal structure" shall mean the structure which fronts a public way or public open space and that is the most visually prominent building on a

parcel when viewed from the primary public way or public open space adjacent to that parcel.

- P. "Semi-active amenity uses" shall mean accessory communal areas, amenity areas, or services for the building residents only.
- Q. "Special Permit" shall mean a zoning permitting process wherein development may proceed only with a Special Permit from the [SPECIAL PERMIT GRANTING AUTHORITY] as specified in [SPECIAL PERMIT SECTION OF TOWN'S ZONING], a process that may result in the approval, approval with conditions, or denial of the development proposal.
- R. "Upper floor" shall mean any full story above the ground story of a building.

### III. **Application.**

[There are two options here, depending on the town's existing code and preferences.]

[OPTION FOR TOWNS WITH A USE TABLE]

- A. Mixed-use developments that follow the provisions of this section shall be allowed according to the use table given in [INSERT USE TABLE SECTION].

[OPTION FOR TOWNS WITHOUT A USE TABLE OR WHO OTHERWISE WANT TO STATE THE APPLICATION OF THIS BYLAW HERE IN THE TEXT]

- A. Mixed-use developments that follow the provisions of this section shall be allowed by-right [and subject to Site Plan Review] in the following districts: [INSERT BY-RIGHT DISTRICT NAMES].
- B. Mixed-use developments that follow the provisions of this section shall be allowed by Special Permit [and subject to Site Plan Review] in the following districts: [INSERT SPECIAL PERMIT DISTRICT NAMES].

- C. Notwithstanding other provisions of this zoning bylaw, mixed-use developments that follow the provisions of this section shall not be allowed in districts not specified in this subsection.

IV. **Use Regulations, Principal Structures.** The following regulations shall govern the uses located within the principal structures of mixed-use developments.

- A. Ground floor, fronting a public way or public park
  - 1. Uses allowed by right
    - a) Active uses as defined in this section
    - b) Consumer-facing office uses [A town should consider whether consumer-facing office uses should be by-right or by Special Permit here. The inclusion of consumer-facing office uses as by-right uses may make mixed-use projects more viable, though they may take away from some of their “active” character.]
    - c) An entryway, lobby, and related circulation areas leading to parts of the building that are either on upper floors or not fronting a public way or public park, provided active uses are included according to the dimensional regulations of this section
    - d) Semi-active amenity uses, provided active uses are included according to the dimensional regulations of this section
  - 2. Uses allowed by special permit
    - a) Non-consumer-facing office uses
  - 3. Uses not permitted
    - a) Housing units
    - b) Parking and driving aisles, except driving aisles to reach parking facilities when there is no alternative access available
    - c) Automobile-oriented uses, including but not limited to auto repair, car washes, and drive-through retail or food service
    - d) Building mechanical, maintenance, or operations
    - e) Any other use that is not open to the public

- B. Ground floor, not fronting a public way or public park
  - 1. Uses allowed by right
    - a) Active uses as defined by this section
    - b) Office uses, consumer-facing or non-consumer-facing
    - c) Semi-active amenity uses
    - d) Circulation facilities, including but not limited to hallways, stairwells, and elevator areas
    - e) Accessory storage for building residents
    - f) Building mechanical, maintenance, or operations
  - 2. Uses allowed by special permit
    - a) Housing units
  - 3. Uses not permitted
    - a) [reserved]
- C. Upper floors
  - 1. Uses allowed by right
    - a) Housing units
    - b) Semi-active amenity uses
    - c) Accessory storage for building residents
    - d) Circulation facilities, including but not limited to hallways, stairwells, and elevator areas
    - e) Building mechanical, maintenance, or operations
  - 2. Uses allowed by special permit
    - a) Active uses as defined in this section, limited to the second floor (lowest upper floor) only
    - b) Office uses, consumer-facing or non-consumer-facing, limited to the second floor (lowest upper floor) only
  - 3. Uses not permitted
    - a) [reserved]
- D. Below-ground areas
  - 1. Uses allowed by-right

- a) Semi-active amenity uses
  - b) Accessory storage for building residents and/or ground floor occupants
  - c) Building mechanical, maintenance, or operations
  - d) Parking
  - e) Circulation facilities, including but not limited to hallways, stairwells, and elevator areas
- 2. Uses allowed by Special Permit
    - a) Active uses as defined in this section, provided uses are visible from the ground floor and can be accessed from a public way or public park
    - b) Office uses, consumer facing and non-consumer-facing
  - 3. Uses not permitted
    - a) Housing units
- V. **Use Regulations, Back-Lot Structures.** The following regulations shall govern the uses located within any back-lot structures in mixed-use developments.
- A. Uses allowed by-right
    - 1. Semi-active amenity uses
    - 2. Accessory storage for building residents and/or ground floor occupants
    - 3. Building mechanical, maintenance, or operations areas
    - 4. Parking
    - 5. Circulation facilities, including but not limited to hallways, stairwells, and elevator areas
  - B. Uses allowed by Special Permit
    - 1. Active uses as defined in this section, but only on the ground floor or lowest upper floor
    - 2. Office uses, consumer-facing and non-consumer-facing
    - 3. Housing units
  - C. Uses not permitted
    - 1. Automobile-oriented uses, including but not limited to auto repair, and drive-through uses

VI. **Development intensity**

- A. If the underlying zoning district regulations specify minimum or maximum residential or nonresidential development intensity (including but not limited to specifications for residential units per acre or floor area ratio), those regulations shall govern the development intensity of a mixed-use development permitted under this section.
  
- B. [This is an optional provision for communities that do not wish to align their underlying residential intensity requirements with standard mixed-use building types.] Where the zoning district regulations governing a proposed mixed-use development site specify minimum or maximum residential or nonresidential development intensity and those specifications prevent the practical mixed-use development of that site where it would be otherwise permitted, those development intensity regulations may be waived for the given site by and at the discretion of the [SPECIAL PERMIT GRANTING AUTHORITY] through a Special Permit process, as specified in [SPECIAL PERMIT SECTION].

VII. **Dimensional Regulations.** Mixed-use developments permitted under this section shall follow the following dimensional regulations, which supersede regulations specified by the zoning district in which the development is located. Where dimensional regulations are not specified here, the regulations of the zoning district shall apply.

- A. **Minimum lot size.** There shall be no minimum lot size for mixed-use developments permitted under the rules of this section.
  
- B. **Maximum lot coverage**
  - 1. For parcels of less than 20,000 square feet, there is no maximum lot coverage for mixed-use developments following the provisions of this section.
  - 2. For parcels of at least 20,000 square feet, the maximum lot coverage for mixed-use developments following the provisions of this section shall be 80% or that of the zoning district in which the development is

located, whichever is greater.

**C. Active frontage, principal structure**

1. For principal structures with no more than 50 feet of ground floor frontage, at least 50% of the ground floor frontage must be dedicated to active uses or consumer-facing office uses as defined in this section.
2. For principal structures with greater than 50 feet of ground floor frontage, at least 50% of the ground floor frontage must be dedicated to active uses or consumer-facing office uses as defined in this section.

**D. Depth of active use, principal structure.** At least 90% of each ground floor active use space in a principal structure shall be at least 25 feet deep, as measured from the front façade to the back of the ground-floor unit's leasable area.

**E. Ground floor active use space size.** Each ground floor active use space shall have no more than 5,000 square feet in leasable area, **except through a Special Permit granted by the [SPECIAL PERMIT GRANTING AUTHORITY].**

**F. Ground floor height, principal structure**

1. In districts **[INSERT VILLAGE CENTER DISTRICTS]**, the floor-to-floor height of the principal structure's ground floor shall be no less than 13 feet and no more than 15 feet. In historic structures, existing floor-to-floor heights should be allowed even if they fall outside this range.
2. In districts **[INSERT SUBURBAN RETROFIT DISTRICTS]** the floor-to-floor height of the principal structure's ground floor shall be no less than 14 feet and no more than 18 feet.

**G. Upper floor height, principal structure.** The floor-to-floor height of the principal structure's upper floors shall be no less than 9 feet and no more than 11 feet.

H. **Minimum building height, principal structure.** The total building height of the principal structure shall be no less than two stories.

I. **Maximum building height, principal structure**

1. The total building height for the principal structure shall be no more than [2,3, or 4].5 stories.

J. **Upper floor footprint, principal structure.** Excluding any half-story upper floors above the highest full upper floor, the footprint of all of the principal structure's upper floors must be at least 70% of the ground floor.

K. **Setbacks**

1. Setback regulations shall be governed by the zoning district in which mixed-use development is allowed, except for front setbacks, which shall be governed as follows.
2. In districts [VILLAGE CENTER DISTRICTS], front setbacks
  - a) Shall be no more than the lesser of
    - (1) Fifteen feet
    - (2) The maximum front setback specified by the zoning district in which the building is located
    - (3) The predominant front setback of buildings fronting the same primary way on the block in which the development is located.
  - b) Shall be no less than the lesser of
    - (1) Five feet
    - (2) The minimum front setback specified by the zoning district in which the building is located
    - (3) The predominant front setback of buildings fronting the same primary way on the block in which the development is located.
3. In districts [SUBURBAN RETROFIT DISTRICTS], front setbacks
  - a) Shall be no more than the lesser of
    - (1) Twenty-five feet

- (2) The maximum front setback specified by the zoning district in which the building is located.
- (3) The predominant front setback of buildings fronting the same primary way within a quarter mile of the development.

b) Shall be no less than the lesser of

- (1) Fifteen feet
- (2) The minimum front setback specified by the zoning district in which the building is located
- (3) The predominant front setback of buildings fronting the same primary way within a quarter mile of the development.

**L. Back-Lot Structures.**

1. The dimensions of all back-lot structures shall be governed by the regulation of accessory structures in the zoning district in which mixed-use development is allowed.
2. Where the zoning district does not provide dimensional regulations to govern accessory structures, the regulations of this section pertaining to the dimensions of principal structures shall govern back-lot structures.
3. In no case shall a back-lot structure be taller than a principal structure.

**M. Nonconforming structures.** The dimensional provisions of this section may be waived by Special Permit for the redevelopment of structures that do not conform to these regulations, provided the proposed redevelopment is in line with the purposes of this section.

**VIII. Parking requirements**

- A. The following automobile parking requirements shall apply to mixed-use developments permitted under this section.

Use	Automobile parking maximum
Housing unit	1.25 spaces per housing unit (rounded up to the nearest whole parking space)
Active use	2 spaces per 1,000 square feet (rounded down to the nearest whole parking space)
All other uses (excepting lobbies, circulation, and accessory uses reserved for occupants and residents of the development)	2 spaces per 1,000 square feet (rounded down to the nearest whole parking space)

- B. In districts [VILLAGE CENTER AND/OR SUBURBAN RETROFIT DISTRICTS], automobile parking requirements may be increased under the following conditions:
1. Through a [Special Permit/Parking Waiver], parking may be increased to more than that required by paragraph VIII(A), at the discretion of the [SPECIAL PERMIT GRANTING AUTHORITY], where the Special Permit applicant can demonstrate, through methods acceptable to the [SPECIAL PERMIT GRANTING AUTHORITY], that parking demand will exceed what can be met by the maximum allowable parking, while also accounting for:
    - a) Peak parking demands that overlap in time significantly or do not overlap in time significantly, depending on the use;
    - b) Age, demographics, socioeconomics, or other characteristics of occupants of the facility that affect the demand for automobile trips;
    - c) Availability of on-street parking or parking at nearby municipally owned facilities.
- C. All off-street parking areas used exclusively by a mixed-use development shall be located within 50 feet of the building containing the mixed-use development.

- D. The following bicycle parking requirements shall apply to mixed-use developments permitted under this section.

Use	Bicycle parking minimum
Housing unit	1 space per housing unit (rounded up to the nearest whole parking space)
Active use	1 space per 1,000 square feet (rounded down to the nearest whole parking space)
All other uses (excepting lobbies, circulation, and accessory uses reserved for occupants and residents of the development)	1 space per 1,000 square feet (rounded down to the nearest whole parking space)

**IX. Site planning**

- A. Principles. The site plan of mixed-use developments permitted under this section should adhere to the following principles:
1. Promote a walkable and vibrant public realm along a public way or public open space.
  2. Emphasize the connection between public ways and open spaces and the uses of the building.
  3. Promote the active use of any space between the ground floor frontage and public right-of-way.
  4. Minimize the visual and physical impact of parking facilities, primarily from the street in front of the site and secondarily from the side and rear, through building placement and context-appropriate landscaping treatments.
- B. Standards
1. Automobile parking facilities shall be behind the principal structure. In cases where parking behind the structure is not feasible, parking to the side of the structure is permitted, provided it is set back at least ten feet from the front of the front facade.

2. Loading facilities shall not be located at the ground floor frontage. If possible, loading facilities should be located at the rear of the building.
3. To the extent possible, automobile access to parking and loading should be located at the side or rear of the parcel and should be screened from view from the public ways or public open spaces along the front of the parcel and from side and rear adjacent parcels.
4. Bicycle parking should be located near the primary entrance to the development's housing units and/or the primary entrance to ground-floor units.
5. The principal entrance of any ground floor active use space should be along the ground floor frontage.
6. The principal entrance leading to the housing units may be along the ground floor frontage or along the side or rear facades.
7. Exterior stairs leading to residential portions of the mixed-use development should be located on the side or rear of the building.

**X. Additional Housing Provisions**

- A. **Age restrictions.** For any mixed-use development permitted through this section, there shall be no age restrictions placed on any of its housing units.
  - B. **Long-term occupancy.** For any mixed-use development permitted through this section, all housing units made available for rent must be rented on terms of not less than **[ONE TO SIX]** months, except by Special Permit through the process specified in **[SPECIAL PERMIT SECTION]**, regardless of whether the development is otherwise allowed by-right or by Special Permit.
- XI. **Conflicts.** Unless otherwise stated, the requirements of this section shall apply to uses and structures permitted under the regulations of this section. In the event of a conflict, the regulations of this section shall apply.
- XII. **Severability.** The provisions of this section are severable. If any court of competent jurisdiction shall invalidate any provision herein, such invalidation shall not affect any other provisions of this section. If any court of competent jurisdiction shall invalidate the application of any provision of this section to a particular case, such



invalidation shall not affect the application of said provision to any other case within the Town.