

BOROUGH OF NEW BRITAIN
BUCKS COUNTY, PENNSYLVANIA

ORDINANCE NO 2021-417

AN ORDINANCE OF THE BOROUGH OF NEW BRITAIN, BUCKS COUNTY, PENNSYLVANIA AMENDING THE NEW BRITAIN BOROUGH ZONING ORDINANCE AND ZONING MAP ORDINANCE AND ZONING MAP TO CREATE A “TOWN CENTER MUO - MIXED USE OVERLAY”AND REGULATIONS GOVERNING DEVELOPMENT UNDER THE TOWN CENTER MUO; REPEALING INCONSISTENT ORDINANCES OR PARTS OF ORDINANCES; CONTAINING A SAVINGS CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101, *et seq.* (the “MPC”) authorizes the Borough Council of the Borough of New Britain to enact zoning regulations to be applied in the Borough;

WHEREAS, Borough Council has enacted a comprehensive zoning ordinance pursuant to the MPC, codified at Chapter 450 of the Borough’s code of ordinances, known as The New Britain Borough Zoning Ordinance of 1994, as amended” (the “Zoning Ordinance”) and an official zoning map in connection therewith (the “Zoning Map”) ;

WHEREAS, from time-to-time Borough Council, with the advice of the New Britain Borough Planning Commission and the Borough’s staff and professionals, identify certain amendments to the Zoning Ordinance and/or Zoning Map that serve the best interests of the Borough;

WHEREAS, the Borough’s Planning Commission recommended certain amendments to the Zoning Ordinance and Zoning Map to establish a new “Town Center MUO – Mixed Use Overlay” (the “Town Center MUO”); and

WHEREAS, Borough Council has determined that the best interests of the Borough would be served by amending the provisions of the Zoning Ordinance and Zoning Map to create the Town Center MUO as set forth herein.

NOW THEREFORE, it is hereby ENACTED and ORDAINED by the Borough Council of the Borough of New Britain as follows:

SECTION I.

The New Britain Borough Zoning Ordinance is amended to add a new Section 450-29.2 Town Center MUO- Mixed Use Overlay District, as follows:

- A. Statement of purpose and objectives. The purposes and objectives of the Town Center MUO district are the following:
 - 1. Recognizing the changing economic landscape, especially regarding retail stores and commercial use, to allow for commercial businesses in the Town Center to expand their uses and add residential components to their properties.
 - 2. To encourage development/revitalization along Butler Avenue.
 - 3. To permit and encourage the development of a combination of diverse non-residential and residential uses located in such a way as to encourage walkability and enhance the overall sense of community through appropriate design standards.
 - 4. To provide regulations to address appropriate access, setbacks, buffers, scale, architecture, and intensity of development to ensure that development along Butler Avenue is consistent with the Borough's corridor planning and streetscape standards.
 - 5. To ensure that development contributes to the "Main Street" character that the Comprehensive Plan and Main Street Plan requires.
 - 6. To foster a lively and vibrant district that can be a gathering place and center for the community.
- B. General. A building or structure may be erected or altered, to be used either in whole or in part, and a lot may be developed using the Mixed Use Overlay established by this section or for any uses permitted by this Ordinance in the underlying zoning districts, provided that such uses, buildings or structures shall comply with such regulations as yard, lot size, lot width, building area, height, impervious surface, easements, buffer yards, off-street parking and other requirements as specified by this chapter.
- C. Mixed-Use Development ("MUD"). –
 - 1. Properties one (1) acre or larger
 - a. Must provide a combination of two (2) or more of the permitted uses listed in Section C.3 (Permitted Uses in a Mixed-Use Development).
 - 2. Properties under one (1) acre
 - a. May provide only one (1) use, which must be a non-residential use listed in Section C. 3. A residential use must be combined with at least one (1) non-residential use, to have a minimum of two (2) uses on the property.
 - b. Individual buildings on a single lot developed under the Overlay may contain both residential and non-residential uses.

3. Permitted Uses in a Mixed-Use Development.

a. Uses Permitted By Right.

- i. Bank or Financial Establishment
- ii. Bed and Breakfast
- iii. Brewery / Brewpub / Micro-Winery / Distillery
- iv. Commercial Recreational or Sports Facility
- v. Convenience Store
- vi. Day Care Center
- vii. Cultural Facility
- viii. Office, Governmental, Business, Veterinary, Medical or Professional
- ix. Motel or Hotel
- x. Nonresidential Accessory Structure
- xi. Personal service business – No single service business shall have more than 5,000 square feet of gross floor area.
- xii. Public Recreational Facility
- xiii. Research
- xiv. Retail Trade and Services - No single retail shop shall have more than 7,500 square feet of gross floor area
- xv. Eating Place, including Take-Out and Quick Serve Restaurants, shall have no more than 5000 SF of gross floor area.
- xvi. State Liquor Store
- xvii. Residential Uses
 - (A) Townhouse Dwelling
 - (B) Multifamily Dwelling
 - (C) Two-Family Dwelling

(b) Uses Permitted by Special Exception

- (i) Drive-through or drive-up facilities associated with one of the permitted uses in section (A) meeting the following criteria:
 - (A) The drive-through shall be located to the side or rear of the building.
 - (B) The drive-through shall be architecturally compatible with the building and streetscape.
 - (C) A traffic impact study shall be submitted in accordance with section 385-39.F of the Borough Subdivision and Land Development Ordinance. A traffic impact study shall be submitted even if the applicability criteria of 385-39.F(3) are not met.
 - (D) The vehicle stacking area for the drive-through window shall not conflict with internal site circulation or block access to any parking spaces, with stacking for an appropriate number of vehicles as required by section 450-14 of this Chapter or as otherwise determined by the traffic impact study, subject to the approval of the Borough Engineer.
 - (E) When a drive-through window is located adjacent to a resident use or district, a decorative sound attenuating fence or other buffer satisfactory to the Borough Council shall be installed, with adequate landscaping to screen the residential use / district from the drive-through.

4. Area and Dimensional Requirements for uses within a Mixed Use Development. All uses shall comply with the area and dimensional requirements listed in this section. If a different area or dimensional requirement is stated in Article 4, Use Regulations, for the specific use, then the requirements of this section shall apply over Article 4.

- (a) Minimum site area: 0.5 acres
- (b) Minimum Lot Area:
 - (i) Two-Family Detached Dwelling: 8,000 square feet
 - (ii) Townhouse Dwelling: 1,500 square feet
 - (iii) Multifamily Dwelling: No minimum lot area

- (c) Minimum Lot Width for overall Mixed-Use Tract: 100 feet
- (d) Minimum Lot Width at Building Setback line for individual lots within overall tract:
 - (i) Two-family detached dwelling: 50 feet
 - (ii) Townhouse: 20 feet
 - (iii) Multifamily Dwelling No minimum lot width
- (e) Maximum Impervious Surface Ratio for Overall Mixed-Use Tract: 75%
- (f) Maximum Building Coverage for Overall Mixed-Use Tract: 50%
- (g) Maximum Building Height:
 - (i) 45 feet (not to exceed three stories) where dedicated future right-of-way is 40 feet or more at half-width.
 - (ii) 35 feet (not to exceed two stories) where dedicated future right-of-way is less than 40 feet at half-width.
 - (iii) To enhance visual screening, roof top mechanical equipment may exceed the applicable maximum building height, but the equipment shall be setback from the edge of the building a minimum of an equal horizontal distance as the height of the rooftop equipment.
- (h) Minimum Yards for Overall Mixed Use Tract:
 - (i) Front Yard: 5 feet
 - (ii) Side Front: 15 feet
 - (iii) Rear Yard: 25 feet
- (i) Maximum Gross Residential Density as measured to Deed Lines:
 - (i) Two-Family Dwelling: 4 dwelling units per acre
 - (ii) Townhouse Dwelling: 5 dwelling units per acre
 - (iii) Multi-Family Dwelling: 12 units per acre

- (iv) Mixed use developments that include (a) the multi-family dwelling use and (b) the townhouse dwelling and/or two-family dwelling use may have a combined density of no more than 12 units/acre.
 - a. The intent of this provision is to encourage a mixture of residential dwelling types in a cohesive and complimentary development comprised of non-residential and residential uses.
 - b. Developments with a mix of (a) the multifamily dwelling use and (b) the townhouse dwelling use and/or the two-family dwelling use shall meet all requirements of this Section 450-29.2.
- (j) Maximum Setback for the primary structure from Butler Avenue (measured from existing right-of-way to face of building): 25 feet
- (k) Minimum Setback from Butler Avenue (measured from existing right-of-way to face of building): 5 feet
- (l) Minimum Setback from Parking lot to face of building: 5 feet
- (m) Minimum Buffer from Residential Lot Lines that are adjacent to but not within the Town Center MUO Zoning District (inclusive of all other setback requirements): 25 feet.
- (n) Minimum Buffer from Residential Lot Lines that are within the Town Center MUO Zoning District: 5 feet.
- (o) Minimum Building Setback from Residential Lot Lines that are adjacent to but not within the Town Center MUO Zoning District: one and one-half (1 1/2) times the height of the building
- (p) Minimum Public Space Required – For each land development or subdivision or use developed under the Town Center MUO - Mixed Use Overlay District, public outdoor space shall be designed as part of the development or use. Public outdoor open space shall be accessible from Butler Avenue and shall be a minimum of 500 square feet per acre of the overall mixed-use tract. The standards for public space set forth in section E.7 of this ordinance must be met.
- (q) Minimum Non-Residential Use for Properties 1 Acre or Larger - Properties 1 acre or larger in lot size shall contain a minimum of 300 square feet of non-residential use for every 10 residential dwellings units. The required “non-residential use” shall be comprised of those uses set forth in Section 450-29.2.C other than the two-family dwelling use, the townhouse dwelling use, and the multifamily dwelling use. Residential accessory and amenity uses which are limited to the residential occupants (e.g. gyms, cafes, business centers, or similar uses customarily incidental to permitted residential uses) shall not

constitute “non-residential” uses for purposes of this requirement. The calculation for the foregoing requirement shall be as follows:

No. of Dwelling Units	Required Non-Residential Space
1-10	300 square feet
11-20	600 square feet
21-30	900 square feet
31-40	1,200 square feet
41-50	1,500 square feet
51-60	1,800 square feet
61-70	2,100 square feet
71-80	2,400 square feet
81-90	2,700 square feet
91-100	3,000 square feet

The same formula and calculation method shall continue to apply to developments with more than 100 dwelling units.

D. Parking. All Parking within the Town Center MUO - Mixed Use Overlay District shall comply with the following requirements, which requirements are intended to supersede any inconsistent provisions in Section 450-42:

a. Parking by Use:

(a) Residential Uses:

(i) Townhouse and Two Family :2 off-street parking spaces/dwelling unit. Garage spaces do not count as required parking spaces.

(ii) Multi-family: 1.5 off-street parking spaces/dwelling unit

(b) Commercial Uses: Five (5) parking spaces/1,000 SF of customer serving floor area. Floor area designated for storage, bathrooms, food preparation areas, utility rooms, and closets shall not be counted in the parking ratio. Up to one (1) parking space/1,000 SF of the required parking may be held in reserve in green area upon approval of the Borough, provided applicant shall install stormwater management facilities at time of initial construction sufficient to handle the stormwater of any parking held in reserve.




(i) On-lot parking areas shall not be located closer to a front lot line than the principal building(s) along Butler Avenue. For all other streets, on-lot parking areas shall not be located closer than 5 feet from the future right of way of the street.

- (ii) On street parking spots may be counted towards the required parking for commercial uses if approved by Borough Council as part of the land development process for an application pursuant to the Town Center MUO District.
- (iii) Minimum parking space dimensions: 9.5 feet wide x 18 feet long. On-street parallel parking shall be 9.5 feet wide x 20 feet long.
- (iv) No one single line of parking shall exceed 20 parking spaces. A planting strip with a 10-foot minimum width is required. A planting strip must be installed at a minimum interval of every 20 parking spaces.
- (v) Loading is required for all retail uses. Minimum loading space size is 10 feet wide by 18 feet deep. Loading may be shared by multiple uses.
- (vi) Drive aisles shall be a minimum width of 24 feet for two-way traffic and 20 feet for one-way traffic.
- (vii) All parking areas shall be landscaped in accordance with New Britain Borough Subdivision and Land Development Ordinance requirements.
- (viii) Shared Parking. For a Mixed-Use Development (“MUD”), Borough Council may permit a reduction of the required number of parking spaces to a number less than the total number that would be required for the separate uses if the applicant demonstrates that peak requirements of various uses are complementary and occur at different times.
 - a. Shared parking will be permitted **only** under the following circumstances.
 1. The uses subject to shared parking must be either part of a single lot, such as an office park, industrial park, or mixed-use development; or the uses must be on lots that are physically adjacent to each other, with cross-easements or other arrangements that allow for shared driveways and shared parking.
 2. Owners or applicants for all uses proposing to use the shared parking arrangement must provide written agreements, in a form acceptable to the Borough, outlining the terms of the shared parking arrangement.
 3. A Parking Management Plan shall be prepared by the applicant that identifies the following: 1) the locations and times of any shared parking and 2) the locations of any dedicated parking for an individual use or building and 3) the mechanisms for shared and dedicated parking spaces for each use.

4. Any MUD approved with shared parking shall be required to submit each change of use and occupancy to the Zoning Officer to be reviewed for compliance with the provisions of the shared parking plan and Parking Management Plan. The applicant shall provide information regarding the type of use and its parking utilization characteristics. The Zoning Officer shall make a determination of compliance that the parking demand, utilization periods, adjacency and conveniences or intensity of any use may exceed the projections or provisions of the shared parking approval and Parking Management Plan.

E. Additional Requirements

1. Lots or properties which front on or take direct access to Butler Avenue shall meet the following requirements:
 - (a) All development authorized by subdivision, land development, or zoning permit shall include elements that contribute to the streetscape of Butler Avenue (Business Route 202). All development shall include a mix of walkways, landscaping and street trees, outdoor sidewalk lighting, benches, bike racks, signage, and appropriate access management to ensure safe and convenient circulation along Butler Avenue and within the site development. These elements shall be subject to the approval of Borough Council.
 - (b) Vehicular access points onto Butler Avenue shall be limited and when practical, combined or arranged in such a manner to share access with adjoining lots. Vehicular access points onto Butler Avenue may be located along a common property line and may encroach within required front and side yard setbacks to accommodate future shared access points.
 - (c) All plans for subdivision, land development, or zoning permits shall include an overall site plan that indicates relationships to surrounding properties, access connections, and how the proposed development will contribute to the streetscape improvements along Butler Avenue.
 - (d) Parking / traffic study requirements – All applications that require more than 50 parking spaces shall submit a traffic study prepared by a professional engineer of the impact to traffic on Butler Ave due to the development, subject to the requirements of 450-39.F. Traffic placed in “reserve” shall be counted towards the required parking for purposes of determining whether a traffic study shall be required.
2. All storm water management controls shall be designed and installed in conformance with all applicable New Britain Borough ordinances.

3. Where two or more adjacent property owners agree to share parking and access improvements, in a manner approved by the Borough Council and PENNDOT to ensure adequate improvements are provided and the requirements of this Ordinance and those of the Subdivision and Land Development Ordinance will be met, the required side yard and buffer yard between or among the properties may be eliminated.
4. All extensions of existing utilities within the Town Center MUO District shall be placed underground.
5. Outdoor Sale of Merchandise - The temporary sale of merchandise in front of the premises may be permitted only as a seasonal sale or a seasonal sidewalk sale. No merchandise shall be placed on a sidewalk or shall impede the flow of vehicular traffic on the site.
6.  Special Events, such as a seasonal farm market, shall be permitted when authorized by the Borough Council. Requests shall be submitted in writing to the Borough Council for  consideration.
7.  Required Public Space.
 - (a) Purpose of Public Space - The Town Center MUO District goal is to foster a lively and vibrant mixed-use district that can be a gathering place and center for the community.
 - (b) Definition of “Public Space” – Recreational and gathering areas open to the public, not just users of the property, that enhance the environmental quality and community appeal of the Borough through plantings, green space, and other aesthetic and planning techniques. Public spaces shall provide a mixture of opportunities for outdoor recreation and community activities and provide visual relief within the built environment.
 - (c) The layout, amenities, and permitted uses in the Public Space shall be approved by Borough Council. Public Spaces shall be accessible from Butler Avenue and shall be visible from Butler Avenue or otherwise sufficient signage shall be provided so that the Public Space can be readily identified and located by the general public from Butler Avenue and other public ways.
 - (d) Examples of Public Space include but are not limited to the following:
 - (i) Plazas (with focus feature such as a fountain and/or clock);

- (ii) Seating areas (courtyard, bird or butterfly habitat)
- (iii) Outdoor eating areas that are not just for the use of the property
- (iv) Landscaped or open space
- (v) Dog park

F. Required Architectural Design Review

1. In accordance with Section 605 of the Pennsylvania Municipalities Planning Code, the Town Center MUO - Mixed Use Overlay District is declared a special area as a major thoroughfare and an area of unique local interest and is hereby designated as an area requiring design review by the Borough.
2. No structure or improvement on any land within the Mixed Use district shall be made until the plans for the exterior architectural features, signs, lighting, and landscaping have been reviewed and approved by the Borough. Any street lights along Butler Avenue must be approved by the Borough. Review under this section shall not be required for regular maintenance of a structure, painting, or exterior color changes.
3. No specific architectural style shall be dictated to applicants; however, factors to be considered by the Borough Council are:
 - (a) New buildings or additions to existing building(s) should be compatible with the existing architectural scale and style of the historic nature of the applicable zoning district.
 - (b) Franchise design/architecture, used by national or chain companies, is discouraged in favor of reusing existing buildings or new designs that reflect the architecture of New Britain Borough.

G. Resolution of Ordinance Conflicts

1. In recognition of the fact that the design standards for development in the Town Center MUO - Mixed Use Overlay District are unique and will permit more intensive use of land than is permitted in the underlying zoning districts, the Borough acknowledges that conflicts may arise between the provisions of this Section 450-29.2, and other provisions of the Zoning Ordinance and the New Britain Borough Subdivision and Land Development Ordinance. The following standards shall be used to resolve such conflicts:
2. Zoning Ordinance conflicts.

- (a) For a Mixed Use Development the following criteria shall apply in lieu of any inconsistent criteria in Section 450-38.A:
 - (i) Disturbance of “forest or wooded areas” within 15 feet of the property boundary shall not exceed fifty percent (50%).
 - (ii) The limitations on the disturbance “steep slopes” shall not apply to manmade slopes.
 - (iii) The tree replacement provisions of Section 450-38.A.(6) shall apply only to large trees that are removed.
- (c) In the event the provisions of this Section 450-29A are inconsistent with any other provision of the Zoning Ordinance, the provisions of this Section shall supersede and apply in lieu of such inconsistent provision.

3. Subdivision and Land Development Ordinance conflicts.

- (a) Inconsistent Provisions. Where the standards set forth in this Section 450-29A are inconsistent or in conflict with any express standard set forth in the Subdivision and Land Development Ordinance, the provisions of this Section shall supersede and apply in lieu of such inconsistent provision.
- (b) **Waiver** of Subdivision Requirements. In order to give effect to the purposes and objectives sought to be advanced by permitting mixed use development, where strict application of a provision of the Subdivision and Land Development Ordinance that is not directly in conflict with a provision of this Section 450-29A would frustrate the ability of an applicant to develop a mixed use development deemed by Council to be consistent with the purposes and objectives of this Section, Council shall be authorized to grant **waivers**.

SECTION II.

The properties identified on Exhibit “A” to this Ordinance are zoned for inclusion in the Town Center MUO - Mixed Use Overlay District and the Zoning Map of the Borough is amended to reflect the Town Center MUO - Mixed Use Overlay District designation.

SECTION III.

Section 450-14.B shall be amended by adding the following new uses:

Brewery / Brewpub / Micro-Winery / Distillery - A facility in which beer, wine, or other alcoholic beverages are brewed, fermented, or distilled for distribution and consumption, and which possesses the appropriate license from the Pennsylvania Liquor Control Board.

SECTION IV.

Section 450-39.B.1.a. shall be amended by adding “Town Center MUO” to the list of zoning districts requiring buffers.

SECTION V.

Section 450-42.G.(2) shall be amended by adding the following parking requirements for the new use:

Brewery / Brewpub / Micro-Winery / Distillery - one space for every three seats for patron use or one space per 50 square feet of gross floor area, whichever is greater, plus one space per employee on the largest shift.

SECTION VI.

Should any part of this Ordinance be determined or declared to be invalid, unenforceable or unconstitutional, it is the intention of the Borough that the remaining portions remain effective for all purposes as if the Ordinance had been adopted and enacted without the inclusion of the invalid section or sections, sentence or phrase.

SECTION VII.

Any and all other Ordinances or parts of Ordinances in conflict with the terms, conditions and provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION VIII.

Except as specifically amended by the terms of this Ordinance, the New Britain Borough Zoning Ordinance and Zoning Map are hereby ratified and confirmed.

SECTION IX.

This Ordinance shall become effective immediately upon adoption.

ORDAINED and **ENACTED** an ordinance of the Borough of New Britain this ____ day of _____, 2021.

BOROUGH OF NEW BRITAIN:

PETER LAMONTAGNE, COUNCIL PRESIDENT

ATTEST:

AMANDA ZIMMERMAN, BOROUGH
SECRETARY

Examined and Approved by me this _____ day of
_____, 2021

DAVID HOLEWINSKI, MAYOR