

ARTICLE VI DISTRICT PROVISIONS

Section 165-49 Traditional Business Overlay District (TBOD) (Effective 2/16/01)

A. Purpose.

1. To protect and preserve this traditional character of Derry's older Central Business District, we are establishing an overlay district within the Central Business District to be known as the "Traditional Business Overlay District." The Traditional Business Overlay District's purpose is to maintain a consistent and recognizable land use policy within the core of the Central Business District. The core represents the gateway into our community. It represents Derry's history, culture, and uniqueness from other New Hampshire communities. It is the nucleus for Derry's business, governmental, social, and cultural activities.

2. It is intended that land use activities allowed within this district will serve to compliment and enhance existing historical, residential, commercial, and cultural uses. It is intended to promote an attractive and appropriate streetscape, creating a quality downtown image. New construction, reconstruction, rehabilitation, and demolition should be performed in such a way as to preserve and /or build on Derry's uniqueness. To that end, this sub-district will overlay the core of the Central Business District. In the event of a conflict between the requirements of this section and the permitted uses within the Central Business District, the requirements of this section shall take precedence. In order to promote this purpose the Planning Board, as set forth in this section, shall be authorized to adopt architectural design regulations for this district.

B. Permitted uses. The following uses shall be permitted: (Revised 07/16/2015, 07/17/2019)

1. Multi-unit residential, dwelling unit as a mixed use in conjunction with permitted non-residential use, subject to the following limitations: (Effective 4/18/03)

- a. All residential-Residential units shall be a minimum of 800-750 square feet per unit limited to one or two bedroom units, with the exception of studio units which are allowed to be 400 square feet in size. The number of studio units shall be limited to 5% of the total allowable number of units for a single project. The number of allowable studio units shall be determined by calculating the total square feet of the building. The total square feet of the combined studio units shall not exceed 5% of the total building square feet. A minimum of one studio unit will be permitted per development, provided the development is comprised of more than 4 units in total. Numbers resulting in a fraction shall

be rounded down to the nearest whole number. For example, if the result is 4.5 units, 4 units shall be permitted.

b. Residential use shall not be permitted below the second floor. (Revised 07/16/2015, rev 05/02/2019)

b.c. Minimum lot area shall be 20,000 square feet. Density shall not exceed 40 dwelling units per acre.

e.d. No building or structure within this district shall be higher than 350 feet above sea level in elevation. (Revised 07/16/2015)

e. Conversion: Existing structures may be converted for multi-unit residential uses, provided that the lot and the structure meet the minimum standards for this-the TBOD district with respect to area and dimensional requirements, buffer zones, off-street parking, and height limitation. Any conversion which involves an existing non-residential or multi-family use, or one which would result in the creation of a combination of non-residential and residential use, or which would result in the creation of a multi-unit dwelling, shall be subject to review and approval by the Planning Board in accordance with Section 165-16 of this chapter and Chapter 170, Land Development Control Regulations.

e.f. All multiunit residential developments shall meet with the Planning Board for a non-binding conceptual discussion prior to scheduling a meeting with the Technical Review Committee, or the submission of a formal application to the Board.

2. Retail Sales Establishment
3. Pharmacy
4. Banks
5. Transportation Center
6. Travel Agent
7. Commercial Service Establishment
8. Contractor
9. Indoor Recreational Facility
10. Commercial Performing and Fine Arts School and Studios (Effective 08/06/2015)
11. Professional Office
12. Office
13. Restaurant
14. Library
15. Public/Private Educational Facility
16. Radio and Television Broadcasting Studios exclusive of transmitter facilities (upper levels only)
17. Parking Facilities
18. Light Manufacturing
19. Any public uses or use by a semipublic agency whose activities are primarily non-profit in nature.

C. Area and dimensional requirements

1. Minimum Lot Area.

A With public sewer: 7,500 square feet.
b. ~~Without public sewer: one acre, plus 10,000 square feet or each 200 gallons per day of sewage effluent after the first 200 gallons per day, unless the owner can show adequate plans for sewage disposal on a smaller lot~~

2. Minimum lot frontage: 50 feet (Effective 11/21/03)
3. Minimum lot width: 50 feet at the zero foot front setback line.
4. Yard Depths
 - a. Front yard: zero feet.
 - b. Side yards: no more than five feet.

5. Building Dimensions. Measured from street grade, no building shall be below two stories in height. Measured from street grade, no building shall be higher than 350 feet above sea level in elevation. The first floor area shall be visibly accessible from the street, or as otherwise provided by architectural design regulations incorporated in Chapter 170, Land Development Control Regulations. (Revised 07/16/2015)

D. Review. Any change from a residential to a non-residential use of a lot or structure, whether in whole or in part shall be subject to review and approval by the Planning Board in accordance with Chapter 170, Land Development Control Regulations, whether or not such development, change or expansion includes a subdivision or resubdivision of the site. Any change in use from one permitted use to another more intense permitted use may be subject to review by the Planning Board based on the determination of the Planning Director or designee. The Planning Board is authorized to adopt architectural design regulations for this district pursuant to RSA 674:16,I & II, 674:21,I, and 674:44.II. If such architectural design regulations are adopted, they shall be incorporated in Chapter 170, Land Development Control Regulations. (Revised 07/16/2015)

E. Buffer zones. Where a non-residential use in this district abuts a residential district, a buffer zone shall be established to help diminish the effects of the non-residential use on the abutting residential district. The buffer zone shall be as provided in Chapter 170, Land Development Control Regulations. (Revised 07/16/2015)

F. Sidewalk display. In the interest of public safety, the sidewalks within the public right-of-way within this district shall not be obstructed by merchandise display, seating, or any other permanent or temporary obstructions, except by special permit as may be established by the governing body of the Town of Derry.

G. Parking

1. General provisions. (Revised 07/16/2015)

- a. Multi-unit residential use in conjunction with mixed use. Parking shall be provided on the basis of one space per bedroom, with a minimum of ~~three~~ 1.5 spaces being required per dwelling unit. Parking shall be located as otherwise provided in Chapter 170, Land Development Control Regulations.

b. Non-residential use. Parking shall be provided in accordance with Chapter 170, Land Development Control Regulations.

c. All off-street parking areas shall be provided in such a way that no vehicle will be required or will be likely to back into the street, access drive or into the lot. (Effective 7/5/07)

d. No parking will be allowed within the designated buffer zone.

H. Prohibited uses. (Repealed/renumbered 02/07/2014)

Any use of land, building, structure, or equipment which would be injurious, noxious or offensive by way of the creation of adverse traffic impacts or conditions, odors, fumes, smoke, dust, vibration, noise or other objectionable features, or hazardous to the community on account of fire or explosion or any other cause shall be prohibited in this district.

Other land use activities which are specifically prohibited within this district include, but are not necessarily limited to, the following:

- a. Sexually oriented business as set forth in Article III, Section 165-27.
- b. Wireless communication facilities.
- c. Uses that are not expressly permitted in subsection B.

I. Conflicting provisions. In all cases where the Traditional Business Overlay District is superimposed over another zoning district in the Town of Derry, that district whose regulations are the most restrictive shall apply.