

## 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:

~~b.a.~~ 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.

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

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

## Land Development Control Regulations Article XI, Design and Construction Standards

### Section 170-63 Parking Requirements

#### A. General parking requirements.

1. No non-residential or multi-family residential site or structure shall be erected, enlarged, or subject to a change of use unless such site conforms with off-street parking requirements contained within this section.
2. All on site parking spaces, service or delivery aisles, interior drives, aisles and vehicular access ways shall be setback a minimum of 10 feet from all side and rear property lines and a minimum of 15 feet from all front property lines in all zoning districts of the Town of Derry except within the Central Business District. Within the Central Business District setback dimensions shall be five feet from all property lines.
3. All parking facilities shall be designed and constructed in compliance with all applicable provisions of the Americans with Disabilities Act (ADA).
4. Required off street parking facilities shall be provided on the same lot as the principal use or uses they are intended to serve except within the Central Business District and the Traditional Business Overlay District. Within the CBD and TBOD parking may be met with a combination of both public and private on and off street parking.
5. All required parking spaces, aisles and drives shall be paved and constructed in accordance with the requirements of this Section.
6. A curbed, raised and landscaped island, a minimum of 15 feet in width, shall be provided where parking spaces, service or delivery aisles, interior access drives, aisles and vehicular access ways abut a public street in all zoning districts of the Town of Derry except within the Central Business District and Traditional Business Overlay District.
7. A curbed, raised and landscaped island, a minimum of 10 feet in width shall be provided between groupings of twenty or more parking spaces in all zoning districts within the Town of Derry.
8. A minimum of 5% of the interior area of any proposed parking area and aisles shall be provided as interior landscaped green space in all parking lots containing more than 20-parking spaces.
9. All parking areas serving non-residential uses shall be illuminated to a minimum of a 1/2 foot candle during hours of operation of said non-residential use.

- B. A parking plan shall be developed for each property proposed for multifamily development in the Traditional Business Overlay District, and the parking plan shall be submitted as part of the conceptual discussion with the Planning Board. The expected demand on parking spaces may be modified based on the unique characteristics of the individual structure or use and the characteristics of mixed uses which operate at different times during the day. The plan shall identify how the expected parking demand can be met utilizing on site surface parking, parking to be made available within the building, public

parking available in on street spaces, or in parking garages or parking lots. The parking analysis may also consider the availability of public or private satellite parking structures.

**C.**          Parking Density Requirements.

1. All non-residential and multi-family residential sites shall provide on-site parking facilities meeting the requirements of this section. Non-residential sites within the CBD and TBOD are allowed to utilize off site parking as stipulated in LDCR Section 170-63.B.4.
2. Where the computation of required parking density results in a fractional number of spaces, the required number of spaces shall be rounded upwards to the nearest whole number (i.e. a computed density of 39.2 or 39.8 spaces results in a requirement for 40 spaces).
3. In cases where a single site is comprised of varying uses, parking requirements for each use shall be calculated in accordance with the requirements of this Section and the total number of required parking spaces shall be the sum of requirements for each individual use.
4. Parking density requirements by use:
  - a. Multi-family dwellings, including independent adult communities — (Effective 2/21/07, amended 5/6/2015)  
1.5 spaces per bedroom with a minimum of two spaces per dwelling unit.  
In the TBOD, parking for multifamily shall be 1 space per bedroom with a minimum of 1.5 spaces per dwelling unit.
  - b. Elderly housing: 1.5 spaces per dwelling unit
  - c. Hospitals: 3 spaces per bed
  - d. Convalescent or nursing home: 1 space per two beds
  - e. Congregate Care Facilities, Assisted Living Facilities —  
There shall be 0.5 parking spaces per unit plus 1 parking space per employee. (Effective 2/21/07)
  - f. Hotel, motel or inn: 1.25 spaces per room, plus one space per 50 square feet of function, meeting, or conference space
  - g. Retail store, shopping center, supermarket, grocery store or bank:  
1 space for each 300 square feet of gross floor area
  - h. Service establishments: 1 space for each 250 square feet of gross floor area
  - i. Churches, theaters, and other places of assembly: 1 space for each 3 seats

- j. Restaurants, eat-in: 1 space for each three seats plus one space for each employee of the largest shift
- k. Cocktail lounges in restaurants, Bars & Nightclubs: 1 space for each 2 seats plus one space for each employee of the largest shift.
- l. Restaurant, fast food or take out: 1 space per 60 square feet of gross floor area, plus one space per employee of the largest shift.
- m. Bowling alley: 4 spaces for each alley
- n. Day care facility: 2 spaces for each employee plus appropriate off-street area for drop-off and pickup of children.
- o. Funeral home: 12 spaces for each chapel
- p. Gasoline station: 1 space per fueling position plus one space per employee of the largest shift
- q. Community center: 1 space per 150 square feet of gross floor area
- r. Membership clubs: 1 space per 150 square feet of gross floor area
- s. Office: 1 space per 300 feet of gross floor area
- t. Professional offices: 1 space per 250 square feet of gross floor area
- u. Medical offices and Health Service Facilities: 1 space per 200 square feet of gross floor area.
- v. Warehouses: 1 space per 1,200 square feet of gross floor area
- w. Wholesaling: 1 space per 500 square feet of gross floor area
- x. Manufacturing: 1 space per 500 square feet of gross floor area
- y. Uses not listed: Subject to determination by Planning Board