

Section 165-33 Central Business District (CBD) (Effective 2116101)

A. Purpose. The Central Business District is established for the purpose of encouraging appropriate uses to occur within an area of the community where the predominant character has been and will continue to be historical, municipal, cultural, residential, and commercial. It is intended that the types of land use activities that would be allowed within the district would not have a severe detrimental impact on existing historical, residential uses, or traditional commercial, or cultural uses which continue to be maintained in the district. 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)

1. Single family dwelling units existing as of July 16, 2015, shall be considered legal permitted uses.
2. Hotels
3. Bed and Breakfasts
4. Inns
5. Multi-unit residential uses are only permitted as a mixed use in conjunction with permitted non-residential uses, subject to the following limitations:
 - a. New construction – the density shall not exceed 12 dwelling units per acre.
 - b. All residential units permitted under this sub-section shall be:
 - i. A minimum of 800 square feet per unit.
 - ii. Limited to one or two bedroom units.
 - iii. Prohibited below the ~~third~~second floor.
 - c. Conversion —
 - i. Existing structures may be converted for multi-unit residential uses, provided that the lot and the structure meet the minimum standards for this district with respect to area and dimensional requirements, buffer zones, off-street parking and height limitations.
 - ii. 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.
6. Retail Sales Establishment
7. Pharmacy
8. Banks
9. Transportation Center
10. Travel Agent
11. Commercial Service Establishments
12. Contractor
13. Indoor Recreational Facility
14. Commercial Performing and Fine Arts Schools and Studios (Effective 08/06/2015)
15. Professional Office
16. Office

17. Restaurant
18. Library
19. Public/Private Educational Facility
20. Radio and Television Broadcasting Studios exclusive of transmitter facilities (upper levels only)
21. Home Occupations (located in single family dwellings existing as July 16, 2015)
22. Parking Facilities
23. Light Manufacturing
24. Any public use or use by a semi-public agency whose activities are primarily non-profit in nature.
25. Electric Vehicle Supply Equipment

C. Area and dimensional requirements

1. Minimum Lot area:
 - a. With public sewer – 30,000 square feet
 - b. Without public sewer – one acre, plus 10,000 square feet for 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 Frontage Requirement: 50 feet. (Effective 11/21/03)
3. Minimum Lot Width 50 feet at the 10-foot setback line.
4. Maximum Yard Depth: Front yard – 8 feet.
5. Minimum Yard Depth: (Revised 07/16/2015)
 - a. Side yard: 5 feet.
 - b. Rear yards: 10 feet.
6. Maximum Building or Structure Height. No building or structure within this district shall be higher than 350 feet above sea level in elevation. (Revised 07/16/2015)
7. Lots existing as of July 16, 2015, regardless of area or frontage, are considered buildable lots provided all other applicable requirements are met. (Effective 07/16/2015)

D. Review. Any change from 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 Section 165-16 of this chapter and 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 and 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. Prohibited uses.

1. 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.

2. Other land use activities which are specifically prohibited within this district include, but are not necessarily limited to, the following: (Revised 07/16/2015)

- a. Sexually oriented businesses.
- b. Wireless communication facilities.
- c. Uses which are not expressly permitted in Sub-section B of this section.

G. Parking. Parking shall be as provided in Chapter 170, Land Development Control Regulations. (Revised 07/16/2015)

H. Special exception uses. A special exception may be granted by the Zoning Board of Adjustment (ZBA), pursuant to RSA 674:33, IV, to owners of parcels of land in the Central Business District (CBD) for land uses listed in this sub-section, as provided herein. In granting such a special exception, the ZBA must find that all of the required conditions listed in this sub-section have been met. The ZBA may attach conditions to any special exception granted under this sub-section that the ZBA deems necessary for conformance to the intent of this section or to alleviate impacts to abutters or to the neighborhood. (Revised 07/16/2015)

1. Uses Permitted by Special Exception: (Revised 07/16/2015)

Product assembly
Equipment fit-up and repair
Research & Development facilities including industrial and environmental testing laboratories
Automobile repair and restoration
Wood and metal craft work

2. Mixed uses. Uses permitted by special exception, as provided in sub-section H.1, shall not be as a mixed use in conjunction with any other permitted use or other use by special exception.

3. Required conditions for special exception. In granting a special exception under the terms of this sub-section H, the ZBA must find all the following to be true:

- a. The proposed Special Exception Use is specified in sub-section H.1 above.
- b. The proposed use provides employment opportunities in the CBD.
- c. The proposed use does not adversely impact the goals and objectives of the CBD, as stipulated in subsection A.
- d. The proposed use makes a positive contribution to a diverse, viable, mixed-use urban center, and will substantially further the economic viability of the district, without negatively impacting the surrounding properties.
- e. The structures, facilities, appurtenances and curtilage of the proposed use will substantially contribute to the streetscape and visual appearance of a traditional New England mill town, including appropriate architecture and landscaping. In seeking a Special Exception, the applicant must demonstrate that the use will

- substantially revitalize and improve existing structures, or that new structures will be architecturally compatible with the neighborhood in which they are proposed.
- f. The requested use otherwise complies with the provisions of subsections C through G of this section.
 - g. The proposed use will not impair the integrity of or be out of character with, the district or immediate neighborhood in which it is located, nor be detrimental to the health, safety or welfare of the residents of the Town.
4. Duration of special exception. Special exceptions granted under this section shall run with the use and shall be transferable from one owner to another, subject to the following conditions:
 - a. The use must continue as originally proposed, without enlargement or expansion.
 - b. The special exception shall expire on the discontinuance of the use, or change to another use.
 - c. The special exception shall expire after one year of inactivity or abandonment.
 5. Site plan review. An approved application for a special exception, in addition to any conditions imposed by the ZBA, shall be subject to site plan review in accordance with Section 165-16 of this chapter and Chapter 170, Land Development Control Regulations

Section 165-49 Traditional Business Overlay District (TBOD) *(Effective 2116101)*

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)*

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 units shall be a minimum of 800 square feet per unit limited to one or two bedroom units.
- b. Residential use shall not be permitted below the ~~third~~second floor. (Revised 07/16/2015)
- c. No building or structure within this district shall be higher than 350 feet above sea level in elevation. (Revised 07/16/2015)
- d. Conversion: Existing structures may be converted for multi-unit residential uses, provided that the lot and the structure meet the minimum standards for this 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.

- 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.
- 20. Electric Vehicle Supply Equipment

C. Area and dimensional requirements

- 1. Minimum Lot Area.
 - a. With public sewer: 7,500 squarefeet.
 - 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 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.