

## **TOWN OF DERRY PUBLIC NOTICE**

The Derry Town Council will hold a public hearing on Tuesday, March 24, 2015 at 7:30 PM at the Derry Municipal Center, 14 Manning Street to:

- Amend Article III, General Provisions, Section 165-22, Building Permit; Construction Requirements, and Section 165-26, Modular or Pre-Built Site Housing and to amend Article VI, District Provisions, Section 165-44, Multi-Family Residential District (MFR) and Section 165-45, Medium High Density Residential District (MHDR) to reference the applicable New Hampshire State Building Codes as adopted by the recently updated Chapter 30 of the Town of Derry Code.

The purpose of the amendments is to update the Town of Derry Zoning Ordinance to be in accord with the recently re-adopted Town of Derry Property Maintenance Code.

The amended ordinance is posted at the Derry Municipal Center, Derry Public Library, Taylor Library and on the Town's website ([www.derry-nh.org](http://www.derry-nh.org)). Copies are available at the Town Clerk's or Town Administrator's office at the Derry Municipal Center, 14 Manning Street, Derry, NH



Galen A. Stearns  
Town Administrator

Posted: 03/11/15  
Derry Municipal Center  
Derry Public Library  
Taylor Library  
Town Website

Purpose of amendment: To update the Town of Derry Zoning Ordinance so that it is in compliance with the recently re-adopted Property Maintenance Code. None of these changes are intended to supersede or be in conflict with the proposed changes to the multifamily residential districts currently under discussion by the Town of Derry Planning Board.

### **ARTICLE III GENERAL PROVISIONS**

#### **Section 165-22 Building Permit; Construction Requirements**

- A. Permit Required. Any person proposing to erect or construct any building or structure, or proposing to alter any existing building or structure must first obtain a permit from the Building Inspector.
- B. Application, Decision and Compliance.
  - 1. Before a permit shall be issued by the Building Inspector, he shall determine whether the proposed work complies with all applicable provisions of this chapter and all other applicable building, electrical, fire, and other codes, chapters and regulations of the Town of Derry. A specific blueprint or other appropriate record of the approved plan shall be filed with the Building Inspector before a building permit is issued.
  - 2. The Building Inspector shall act to approve or disapprove the building permit application within 10 days of the receipt of said application. The Building Inspector shall make inspections of all buildings in the process of construction and shall report any violations to the Town Council.
- C. Permit to be Withheld. No permit shall be issued for construction or alteration unless the proposed structure will present a reasonable appearance and will be in keeping with the neighborhood, and unless the building is to be finished on the exterior in a permanent manner and is to be suitably painted on the outside whenever the same is of wood or a material customarily painted. This is intended to eliminate the erection of structures obviously out of place for the neighborhood where they are located and which may be detrimental to property values and neighborhood character.
- D. Permit Duration and Renewal. Building permits shall be valid for one year from the date of issuance. Said permits may be renewed for a period of one year provided that construction under the original permit was commenced during the first year. On a new building, "construction commenced" shall mean the completion of at least the foundation. After the foundation is constructed, buildings must be completed within one year unless the permit is extended by the Building Inspector for good cause. All permits issued prior to the enactment of this chapter shall expire one year from the date of enactment of this chapter unless renewed as provided herein.

E. Permit Fees - The building permit fee schedule shall be as is contained in the International Building Code as currently adopted by the State of New Hampshire and as amended by the Town of Derry. ~~Renewal fee as applicable. (Effective 11/17/05) under Chapter § 30 of the Town of Derry Code.~~

F. Construction Requirements - All construction shall be in accordance with:

1. ~~All construction shall be in accordance with the The State Building Code as currently adopted and shall include the following: (Effective 11/17/05) by the State of New Hampshire and as adopted by the Town of Derry under Chapter § 30 of the Town of Derry Code and shall include the:~~

- ~~International Building Code as amended by the Town of Derry under Chapter § 30 of the Town of Derry Code; as amended by the State of New Hampshire and the Town of Derry;~~
- ~~International Residential Code as amended by the State of New Hampshire~~
- ~~International Plumbing Code as amended by the State of New Hampshire;~~
- ~~International Mechanical Code; as amended by the State of New Hampshire~~
- ~~International Energy Conservation Code as amended by the State of New Hampshire~~
- ~~International Existing Building Code as amended by the State of New Hampshire; and the~~
- ~~National Electrical Code (NFPA 70) as amended by the State of New Hampshire;~~

2. ~~All In addition to the State Building Code, all codes as may be currently adopted by the State of New Hampshire Fire Marshall's Office and as contained in Chapter SAF-C6000- State Fire Code; and, In addition the following codes and/or amendments are adopted by reference: the International Property Maintenance Code as amended and adopted by the Town of Derry under Chapter § 30 of the Town of Derry Code.~~

- ~~International Residential Code;~~
- ~~International Property Maintenance Code.~~

4.G. Sewage. All dwellings and buildings containing required plumbing fixtures shall be equipped with sewage disposal systems approved by the State of New Hampshire Water Supply and Pollution Control Division. If the sewer line comes within 125 feet of the property line, or for special use of lagoons, refer to Chapter 122, Sewers and amendments thereto. (Effective 11/17/05)

## Section 165-26 Modular or Pre-Site Built Housing

Modular or Pre-site built housing built to the existing town code, International Residential Building Code, constructed in accordance with the Town and State Building Codes shall be

allowed in all areas of the Town where residential construction is presently allowed, under the same conditions requirements as conventional single family housing in the same district, must meet. (Effective 11/17/05)

## ARTICLE VI DISTRICT PROVISIONS

### Section 165-44 Multi-Family Residential District (MFR)

A. Permitted uses. The uses permitted within this district shall be limited to the following:

Single family detached dwellings

Two-family dwellings

Multi-family dwellings

Accessory apartments (must also comply with the provisions of Section -165-25).

B. Area and dimensional requirements.

1. Single family detached and two-family dwellings:

a. Minimum lot area

- i. When served by municipal water or municipal sewer, the minimum lot area required shall be 15,000 square feet per dwelling unit.
- ii. When served by both municipal water and municipal sewer, the minimum lot area required shall be 10,000 square feet per dwelling unit.
- iii. When served by a community water system, the minimum lot area required shall be one acre (43,560 square feet) per dwelling unit.

b. Minimum Frontage (Effective 11/21/03)

- i. When served by either municipal water or municipal sewer, or by both, the minimum lot frontage required shall be 100 feet.
- ii. When served by a community water system, the ~~minimum~~ minimum lot frontage required shall be 125 feet.

c. Minimum lot width.

- i. When served by either municipal water or municipal sewer, or by both, the minimum lot width required shall be 100 feet at the thirty-five foot front setback line, or 100 feet at the front lot line.
- ii. When served by a community water system, the minimum lot width required shall be 125 feet at the thirty-five foot front setback line, or 125 feet at the front lot line.

- d. Minimum yard depths.
  - i. Front yard shall be 35 feet;
  - ii. Side and rear yards shall be -15 feet.

2. Multi-family dwellings (More than two units per building).

- a. Minimum lot area. The minimum lot area required shall be -3,630 square feet per dwelling unit.
- b. Minimum lot frontage. The minimum lot frontage shall be 150 feet per dwelling unit. (Effective 11/21/03)
- c. Minimum lot width. The minimum lot width required shall be -150 feet at the 35 foot setback. . (Effective 11/21/03)
- d. Minimum yard depths. The minimum front, side and rear yards shall be 30 feet each.
- e. Building height: Multi-family dwellings shall not exceed -60 feet in height.

C. Additional multi-family requirements.

- 1. The maximum length of a multi-family dwelling shall not exceed 200 feet.
- 2. The minimum distance between multi-family dwellings shall not be less than -35 feet.
- 3. All multi-family dwellings shall be connected to the municipal water and the municipal sewer systems.
- 4. At least 15% of the gross lot area shall be provided for recreation space.
- 5. Off-street parking shall be provided in accordance with Chapter 170, Land Development Control Regulations.
- 6. ~~Multi-family dwellings shall be constructed in accordance with the provisions of the New Hampshire State Building Code as adopted by the State of New Hampshire and as adopted and amended by the Town of Derry under Chapter 30 of the Town of Derry Code. the (Effective 11/17/05)~~
  - ~~International Building Code as amended by the State of New Hampshire and the Town of Derry;~~
  - ~~International Plumbing Code as amended by the State of New Hampshire;~~
  - ~~International Mechanical Code;~~
  - ~~International Energy Conservation Code;~~
  - ~~National Electrical Code (NFPA 70);~~
  - ~~All codes as may be currently adopted by the State of New Hampshire Fire Marshall's Office and as contained in Chapter SAF-C6000 State Fire Code;~~

d. Minimum yard depths.

- i. Front yard shall be- 35 feet.
- ii. Side and rear yards shall be -15 feet.

2. Multi-family dwellings.

- a. Minimum lot area. Minimum lot area required shall be 3,630 square feet per dwelling unit.
- b. Minimum lot frontage shall be 150 feet. (Effective 11/21/03)
- c. Minimum lot width. Minimum lot width required shall be 150 feet at the front lot line.
- d. Minimum yard depths. Side and rear yards shall be 30 feet each
- e. Building height. Multi-family dwellings shall not exceed -60 feet in height.

3. *Private schools.*

- a. Minimum lot area: One acre (43,560 square feet)
- b. Minimum lot frontage: 125 feet. (Effective 11/21/03)
- c. Minimum lot width: 125 feet at the front lot line and 125 at the thirty foot front setback line
- d. Minimum yard depths.
  - i. Front yard: 30 feet;
  - ii. Side and rear yards: 20 feet
- e. Building height. Building height shall be subject to the review and approval of the Planning Board.
- f. Buffer zones. Before any building, parking lot, or driveway can be constructed that is non-residential in nature and abuts a residence or residential district, a buffer zone will be established with the following minimum characteristics:
  - i. It shall be a minimum of -50 feet wide.
  - ii. It shall be landscaped and maintained with the purpose in mind to diminish the effect of lighting, sound and odor created by the nonresidential use.
  - iii. Minimum plantings for the buffer zone shall be three rows of coniferous type trees running parallel with the residential district. These trees shall have a minimum height of six feet, and be planted at a distance of 12 feet to 16 feet on center. They shall be staggered so as to present a more dense buffer zone. Landscaping of the buffer zone shall be approved by the Planning Board.
  - iv. When the existing trees and understory vegetation in the buffer zone are sufficiently dense so as to provide screening at least as effective as the minimum plantings specified in paragraph (iii), above, the Planning Board may opt to require the maintenance of the existing vegetative buffer in lieu of cutting it down to accommodate new plantings, or may opt to require a combination of new plantings and existing vegetative buffer. (Effective 12/2/05)

~~\_\_\_\_\_ In addition the following codes and/or amendments are adopted by reference:~~

- ~~• International Residential Code;~~
- ~~• International Property Maintenance Code.~~

## **Section 165-45 Medium-High Density Residential District (MHDR)**

A. Permitted uses. The uses permitted within this district shall be limited to the following:

Single family detached dwellings.

Two-family dwellings.

Multi-family dwellings.

Accessory apartments (must also comply with the provisions of Section 165.25)

Private schools. (Effective 5/10/02)

B. Area and dimensional requirements

1. Single family detached and two-family dwellings:

a. Minimum lot area.

- i. When served by municipal water or municipal sewer, the minimum lot area required shall be 15,000 square feet per dwelling unit.
- ii. When served by both municipal water and municipal sewer, the minimum lot area required shall be 10,000 square feet per dwelling unit.
- iii. When served by a community water system, the minimum lot area required shall be one acre (43,560 square feet) per dwelling unit.

b. Minimum lot frontage (Effective 11/21/03)

- i. When served by either municipal water or municipal sewer, —or by both, the minimum lot frontage required shall be 100 feet.
- ii. When served by a community water system, the minimum lot frontage required shall be 125 feet.

c. Minimum lot width

- i. When served by either municipal water or municipal sewer, or by both, the minimum lot width required shall be 100 feet at the 35 foot front setback line, or 100 feet at the front lot line.
- ii. When served by a community water system, the minimum lot width required shall be 125 feet at the 35-foot front setback line.

- v. Landscaping of the buffer zone shall be approved by the Planning Board. (Effective 12/2/05)
- g. Off-street parking. Off-street parking shall be provided in accordance with the provisions of Chapter 170, Land Development Control Regulations.
- h. Site plan review. All development or change or expansion of use of land or buildings for non-residential uses, whether or not such development includes a subdivision or resubdivision of the site, shall be subject to review and approval or disapproval by the Planning Board in accordance with the provisions of this -chapter and Chapter 170, Land Development Control Regulations

#### C. Additional multi-family requirements

- 1. The maximum length of a multi-family dwelling shall not exceed -200 feet.
- 2. The minimum distance between multi-family dwellings shall not be less than 35 feet.
- 3. All multi-family dwellings shall be connected to the municipal water and the municipal sewer systems.
- 4. At least -15% of the gross lot area shall be provided for recreation space.
- 5. Off-street parking shall be provided in accordance with Chapter 170, Land Development Control Regulations.
- 6. ~~Multi-family dwellings shall be constructed in accordance with the provisions of the New Hampshire State Building Code as adopted by the State of New Hampshire and as adopted and amended by the Town of Derry under Chapter 30 of the Town of Derry Code. (Effective 11/17/05)~~
  - ~~• International Building Code as amended by the State of New Hampshire and the Town of Derry;~~
  - ~~• International Plumbing Code as amended by the State of New Hampshire;~~
  - ~~• International Mechanical Code;~~
  - ~~• International Energy Conservation Code;~~
  - ~~• National Electrical Code (NFPA 70);~~
  - ~~• All codes as may be currently adopted by the State of New Hampshire Fire Marshall's Office and as contained in Chapter SAF-C6000 State Fire Code;~~
- ~~\_\_\_\_\_ In addition the following codes and/or amendments are adopted by reference:~~
  - ~~• International Residential Code;~~
  - ~~• International Property Maintenance Code.~~

#### D. Special exception uses.

- 1. A special exception may be granted by the Zoning Board of Adjustment to allow an owner-resident to conduct a home business in herhis dwelling. Such home business shall be limited to the following professions or trades:



- a. Lawyer, doctor, clergyman, real estate agent, insurance agent, or similar recognized profession or business
- b. Artist, artisan or craftsman
- c. Tradesman or repairman

2. A request for only such special exception uses as are specified in –sub-section D.1 above may be granted, provided that the Zoning Board of Adjustment finds favorably with respect to each of the following conditions:

- a. The applicant claims the dwelling unit as her/his legal residence;
- b. The residential use was established by the applicant prior to the filing of the request for the special exception;
- c. The proposed home business will not be injurious, noxious, or offensive to the neighborhood by reason of emission of odor, fumes, dust, smoke vibration, noise, or other cause;
- d. The home business use will be conducted within the residential structure, or other existing structure, and will not exceed –25% of the finished living area of the dwelling. (eff 9/10/09)
- e. The home business use will not change the residential character of the dwelling, or the property;
- f. Not more than one person not residing in the dwelling unit will be employed on the premises at the same time;
- g. Sufficient off-street parking will be provided for employees, clients, and customers. Where lot size permits, the parking will not be provided within 25 feet of the front lot line, nor within 10 feet of a side or rear lot line;
- h. Not more than one home business use will be conducted on the property;  
and
- i. The proposed home business use will not, in any way, be contrary to any covenants or conditions contained in the deed to the property.

3. Special exceptions granted under this section are intended for use by the current residents and, as such, shall not be transferable to subsequent occupants.  
(Effective 10/7/99)

4. Nothing in this subsection D shall be construed to allow sexually oriented businesses within this district.