

ZONING

425 Attachment 1

Borough of Derry

Attachment 1

Appendix 1: A Reader's Guide to the Organization and Applicability of this Ordinance

This Ordinance regulates all land uses, lots, and structures within Derry Borough. Every regulated land use, lot or structure must either conform to the rules of this Ordinance or be a nonconforming use, nonconforming lot, or nonconforming structure. A nonconformity is defined as a use, lot or structure that: (1) was legally established before the effective date of this Ordinance's enactment (See Article I, Section 108, Effective Date¹), and (2) does not conform to the substantive requirements of this Ordinance. Because property owners could not have known what the regulations of this Ordinance were going to be in advance, they have a legal and ethical right to continue the previously legal use of their property as they had prior to enactment of this Ordinance. However, all nonconformities, except nonconforming signs, are subject to the regulations of Article III, Nonconforming Buildings and Uses. Special regulations for nonconforming signs are provided in Article VII, Signs. All regulated land uses, lots and structures that are neither in conformance with the controls of this Ordinance or are nonconformities do not meet the requirements of the Ordinance and subject to the enforcement procedures and penalties specified in Article II, § 425-26, Enforcement.

Zoning Ordinances are always complex due to the complex nature of modern communities. However, this Ordinance is organized to be simple and to minimize the amount of reading required determining how a property or project is restricted.

The first three Articles of this Ordinance contain specifications that affect Derry Borough landowners on a daily basis, and apply to all properties within the Borough. Article I, General Provisions, titles and enacts the Ordinance, explains what the general purposes of this Ordinance are and what its basic rules are.

Article II, Administration, explains, among other things, 1) when Zoning Permits are needed, 2) what a Variance is, 3) what a Special Exception Use is, 4) what a Conditional Use is, and then illustrates the procedures for obtaining permits and/or scheduling hearings for various uses. It also lists the standards that the Borough Council is to employ in determining whether or not to grant permission for certain uses, how the Ordinance will be enforced, how landowners may contest the Zoning Officer's determinations, and how landowners may dispute the validity of this Ordinance. Administrative provisions that are relevant to the Zoning Officer, Municipal Officials, Borough Council, and the Zoning Hearing Board are also contained in Article II.

Article III, Nonconforming Buildings and Uses, explains what nonconformity is and what extra regulations apply to nonconforming uses. In summary, anyone who has a question concerning how this Ordinance regulates all property should review Articles I, II, and III.

However, many of the regulations in the Ordinance should not be applied to all areas of the Borough due to the differing statutes and goals for each area. So Article IV, Designation of

¹ Editor's Note: "Section 108" refers to original ordinance numbering; said section is not codified herein.

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Zones, divides the Borough into six different Zoning Districts, each of which is composed of areas with present-day statues and goals. Therefore, Article V sets forth provisions that differ from one Zoning District to another to accomplish these goals. This article also contains some general zone provisions that apply to a number of land uses.

Article V, District Regulations, Permitted Uses, then provides sets of regulations for each Zoning District, addressing specific subjects for the district such as permitted land uses, conditional uses, and special requirements found in Article VII, Signs. Within each Zoning District in Article V, District Regulations, Permitted Uses, are subsections titled “Required off-street parking spaces” that address the off-street parking requirements for specific land uses within the zones including general requirements, facilities required, and loading and unloading space. A general rule of thumb is that readers who have a question concerning how the Ordinance regulates a property need to read the parts of Article V that concern the Zoning District of that property.

Article VI, Supplemental Regulations, constitutes policies that involve and affect all or a majority of Zoning Districts.

Article VII, Signs, contains the majority of the Ordinance’s sign regulations, including those that apply to all residential districts, portable signs, billboards, and business identification.

Article VIII, Definitions, provides a glossary of the terms used throughout this Ordinance.

The sections in Article I, II, and III apply to every regulated land use, lot, and structure in the Borough. Because they address each of the Derry Borough’s six Zoning Districts, the sections in Article IV also apply to every regulated land use, lot, and structure in the Borough. However, the sections of Articles V-VII apply only when a provision of Article I, II, or III explicitly says so. Borough officials should be familiar with the entire Ordinance, as well as the Derry Area Multi-Municipal Comprehensive Plan.

Appendix 2: Where Do I Begin? A Guide Determining Your Property’s Regulations.

This section is designed for the person(s) who are not familiar with this Ordinance or zoning regulations in general. Provided is a step-by-step listing of the sections one would read to determine (1) what zone your property is in; (2) the zone’s regulations; (3) applicable permit procedures; and (4) other requirements, if any, as determined by the type and use of the applicable property. In order to accomplish this basic understanding, one need only to research the following:

1. The Zoning Map to determine the Zoning District within which the subject property is located;
2. Article IV, which designates the various Zoning Districts and how they are bounded and interpreted;
3. Article V to find the regulations for subject property’s Zoning District;

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4. The first two sections of Article II for Zoning Permit information; and (if applicable)
5. Article VII, Signs, for sign requirements.

For many applicants, the aforementioned reading will cover the necessary sections so the property owner or project manager may become familiar with the procedures and regulations of this Ordinance. However, special regulations or requirements may apply to specific properties or projects. Additional information may need to be reviewed as follows:

1. Articles I, II, and III;
2. Any sections specifically referenced by other Articles reviewed; and
3. The parts of Article VIII that define the terms in the aforementioned relevant articles.