

The Town of Derry Town Council approved the following change to the Town of Derry Zoning Ordinance at its November 18, 2025, meeting. The changes will become **effective December 19, 2025**.

Section 165-5 Definitions

ACCESSORY DWELLING UNIT – A residential living unit that is ~~within or attached to~~ located on a lot containing a single family dwelling, ~~and~~ that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies. Accessory dwelling units may be constructed at the same time as the principal dwelling unit. An “attached unit” means a unit that is within or physically connected to the principal dwelling unit, or completely contained within a preexisting detached structure. A “detached unit” means a unit that is neither within nor physically connected to the principal dwelling unit, nor completely contained within a preexisting detached structure. (Effective 07/20/2017).

Section 165-8 Number of Buildings Per Lot

Only one residential building or dwelling shall be situated on a lot, except as provided elsewhere in the Ordinance specifically for permitted multifamily use consisting of at least three (3) dwelling units per building, or in the case of an accessory dwelling unit. (Revised 05/07/2015)

Section 165-25 Accessory Dwelling Units

The creation of an accessory dwelling unit in an existing single family detached dwelling shall be subject to all of the following conditions: (Section revised 07/20/2017)

- a. The structure shall meet the appropriate building setbacks. Accessory dwelling units may be converted from existing structures, including but not limited to detached garages, regardless of whether such structures violate current dimensional requirements for setbacks or lot coverage. (Rev. 2/21/25)
- b. Adequate provisions for sewer discharge disposal shall be required in accordance with state law.
- c. One additional off street parking space shall be provided for the accessory dwelling unit. (Rev. 2/21/25)
- d. The ~~floor total living space area~~ of the accessory dwelling area shall not ~~be less than 750 square feet, nor~~ exceed ~~800-950~~ square feet of living space. (Effective 11/17/05, Revised 07/20/2017)

- e. The accessory dwelling unit ~~must~~may be contained within or be attached to the existing dwelling or be within a structure which is attached to the existing dwelling, and may include an interior door which shall be provided between the principal dwelling unit and the accessory dwelling unit through a common space shared with the principal dwelling unit as a primary means of ingress or egress.
- ~~f. The conversion of an independent free-standing accessory structure for the purpose of creating an accessory dwelling unit is prohibited.~~
- ~~g.f.~~ The accessory dwelling unit shall be composed of a kitchen, a living room, a bathroom, and ~~one or~~no more than two bedrooms.
- ~~h.g.~~ Room sizes in the accessory dwelling unit must conform to the minimum requirements of the International Residential Code. **(Effective 11/17/05, rev 2017)**
- ~~i.h.~~ Once an accessory dwelling unit is created under this section, no further conversion of the structure will be allowed for purposes of creating an additional dwelling unit.
- ~~j.i.~~ The structure and the lot shall not be converted to a condominium or any other form of legal ownership distinct from the ownership of the existing single family dwelling.
- ~~k.j.~~ The design of any addition required to facilitate the construction of an accessory dwelling unit shall maintain continuity with the look of the primary dwelling unit.
- ~~l.k.~~ Owner occupancy must occur in either the primary or accessory dwelling unit.
- l. On a single parcel, there may be no more than a single accessory dwelling unit, which may be attached or detached.

Section 165-38 Manufactured Housing Park District (MHPD)

E. Design standards. After the effective date of this chapter, all new manufactured housing parks, and the expansion and alteration of existing parks, shall be subject to the following minimum design standards, compliance with which shall be determined by the Planning Board under Chapter 170, Land Development Control Regulations.

2. Space standards.

- a. Each space shall be a minimum of 7,200 square feet in area, shall be at least 60 feet wide by at least 120 feet in depth, and shall front upon an interior access drive or private road. The bounds of each space shall be clearly marked. **(Effective 7/5/07)**

- b. Each space shall include provision for at least ~~two~~one off-street parking spaces, ~~each~~ at least 10 feet wide by 22 feet long, having an all-weather surface area.
- c. ~~Each manufactured housing space shall be provided with a four-inch thick reinforced concrete pad, the length and width of which shall be sized to accommodate the dimensions of the manufactured housing unit to be placed thereon.~~ Each manufactured housing space shall be provided with a reinforced concrete housing slab, which meets the State of NH Installation Standards for Manufactured Housing.
- d. Each space shall be provided with an all-weather walkway.
- e. Each space shall have an attachment for water supply, the source and distribution system of which meet all state and local regulations.
- f. Each space shall be provided with a connection to an adequate central sewage disposal system which shall meet all state and local regulations.
- g. If a centralized subsurface disposal system is used, the septic tank and leach field shall not be located on any manufactured housing space, but shall be located on a separate lot of sufficient size to accommodate the ultimate capacity of the park.
- h. If each manufactured housing space is to be served on-site by an individual subsurface disposal system, the space being served shall be at least one acre in area.
- i. Separate lots containing subsurface disposal systems shall not be considered part of the required open space and recreation area.
- j. Each space shall be properly graded and drained to assure the adequate disposal of surface and storm water.
- k. Each space shall be provided with a storage building having at least 100 square feet of floor area.
- l. All buildings on the space shall be at least 20 feet apart.
- m. Each space shall be provided with an electrical source supplying at least 100 amps, 120/240 volts. The installation shall comply with all applicable state and local electrical codes.
- n. Each space shall be provided with a light post at the access drive or street end of the driveway, to which the access drive or street number of the space shall

be attached in such manner as to be adequately illuminated and visible to emergency services personnel. **(Effective 7/5/07)**

o. Each space shall be provided with a substantial flytight receptacle from which all garbage and refuse shall be removed and disposed of by the park owner not less frequently than once weekly.

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

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 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.

Section 165-125 Appeals

A. Appeals to the Board of Adjustment concerning interpretation or administration of this chapter may be taken by an abutter, or by any officer, department, board or bureau of the municipality affected by any decision of the administrative official. Such appeal shall be taken within ~~a reasonable time as prescribed by the rules of the Board~~ 30 days by filing with the administrative official from whom the appeal is taken and with the Board, a notice of appeal specifying the grounds thereof. The administrative official from whom the appeal is taken shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken. (Rev. 2/21/25)

B. An appeal stays all proceedings under the action appealed from, unless the administrative official from whom the appeal was taken certifies to the Board of Adjustment, after notice of appeal shall have been filed with him, that by reason of the facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by the Superior Court on notice to the administrative official from whom the appeal is taken on due cause shown.

Section 165-32 GC - General Commercial District

1. Permitted Uses. **(Revised 07/19/2013, rev 06/21/2019, rev 05/202021)**

A. The following types of uses shall be permitted.

1. Aeroponics (Effective 05/20/2021/
2. Agritourism (Effective 05/20/2021)
3. Aquaponics (Effective 05/20/2021)
4. Automobile Repair.
5. Automobile and similar vehicle sales.
6. Automobile service station.
7. Bank
8. Brewery (Effective 05/20/2021)
9. Brew Pub (Effective 05/20/2021)
10. Bus depot/sale of travel accommodations
11. Commercial Performing Fine Arts Schools and Studios **((Effective 08/06/2015)**
12. Commercial Service Establishment
13. Contractor (Effective 05/20/2021)
14. Day Care
15. Drive-In Restaurant
- 15.16. Dwelling, Multi Family
- 16.17. Essential Services Facility
- 17.18. Filling Station
- 18.19. Health Service Facility (Effective 05/20/2021)
- 19.20. Home Occupations
- 20.21. Hospital
- 21.22. Hotel
- 22.23. Hydroponic Agriculture (Effective 05/20/2021)
- 23.24. Inn
- 24.25. Indoor Commercial Recreational Facility
- 25.26. Indoor Farming (Effective 05/20/2021)
- 26.27. Library
- 27.28. Light Industry
- 28.29. Light Manufacturing (Effective 05/20/2021)
- 29.30. Manufacturing
- 30.31. Medical Office
- 31.32. Microbrewery (Effective 05/20/2021)
- 32.33. Office
- 33.34. Professional Office
- 34.35. Any public use or use by a semipublic agency for which the activities are primarily non-profit in nature.
- 35.36. Public/Private Educational Facility
- 36.37. Radio Broadcasting and receiving stations, excluding wireless communication towers

~~37.38.~~ Research and Development Laboratory (Effective 05/20/2021)

~~38.39.~~ Restaurant

~~39.40.~~ Retail Sales Establishment

~~40.41.~~ No use described in Section 165-32.A.1 shall be construed or interpreted to allow sexually oriented businesses in the General Commercial District except as provided in Subsection D.

~~41.42.~~ Sports Wagering (**Effective 02/27/2020**)

~~42.43.~~ Single family dwelling units existing as of the effective date of this amendment (July 19, 2013), shall be considered legal permitted uses.

~~F. Conditional Use Permit (Effective 11/21/03)~~

~~The Planning Board, upon receiving a completed application under the terms of this section, and upon making findings of fact as stipulated and required herein, shall grant a Conditional Use Permit for certain non-residential uses within the GC District, subject to the terms, conditions and restrictions of this section~~

~~1. Non-residential uses allowed by Conditional Use Permit~~

~~The following non-residential uses shall be eligible for Conditional Use Permit, as provided herein:~~

~~a. Self-storage~~

~~b. Accessory uses to Self-storage~~

~~2. Required conditions for issuance of Conditional Use Permit~~

~~The Planning Board shall issue a Conditional Use Permit for any of the uses listed in sub-section 1, subject to the terms, conditions and restrictions of this section, if the Board shall find all of the following to be true:~~

~~A. The proposed use provides reasonable architectural & landscape features that in the opinion of the Board will not devalue abutting properties. Any architectural design regulations that may from time to time be adopted by the Derry Planning Board and incorporated into the Land Development Control Regulations, shall be applicable, as additional requirements, for any Conditional Use Permit issued under the terms of this section~~

~~B. The proposed use will not cause an undue or unmitigated impact upon its surrounding neighborhood in terms of pedestrian or vehicular traffic, unusual noise, or excessive light levels, based on the design standards and existing or proposed capacity of public and private infrastructure servicing the neighborhood and the proposed use, such as roadways, access drives traffic signage and signalization, sidewalks, water and sewer. (Effective 7/5/07)~~

~~C. The proposed use complies with those site plan requirements for uses allowed in the GC District.~~

~~D. The proposed use augments and complements the other permitted uses within the neighborhood and the GC District.~~

~~E. The proposed location and size of the proposed use within the GC District would not be essentially incompatible with the neighborhood and be more advantageous and practicable in one area of the GC District than in all areas of the GC District.~~

~~3. Duration~~

~~All Conditional Use Permits issued pursuant to the provisions of this section shall “run with the use” and not be subject to revocation unless:~~

~~A. The conditional use is changed to some other use permitted within the GC District, or~~

~~B. The conditional use is abandoned for a period exceeding one year.~~

~~4. Conditions and Restrictions — The following general rules apply to the granting of a Conditional Use Permit:~~

~~1. Any conditional use permitted under the provisions of this section shall be subject to all restrictions and requirements of the GC District.~~

~~2. All storage of property shall be within an enclosed building~~

~~3. No on site repair of vehicles or other machinery stored in the facility may be conducted.~~

~~4. The facility may not be used as a transfer and storage business where vehicles are a part of the business.~~

~~5. In approving a conditional use permit, the Planning Board may impose conditions and/or restrictions on the use consistent with the unique characteristics of the neighborhood and its environment.~~

~~5. Application — Applicants shall be required to submit an application for a Conditional Use Permit in such detail as may be set forth in regulations established by the Planning Board.~~

F. Multi-family Residential uses are only permitted as a mixed use in conjunction with permitted non-residential uses and shall be approved through a Conditional Use Permit issued by the Planning Board following a duly noticed public hearing, pursuant to RSA 674:21, II. The public hearing shall take place at the same time as the hearing to review the site plan for the project.

1. When an existing building is being converted to multi-family or mixed use purposes, an exemption is permitted for setbacks, height, or frontage, providing the original building’s height, floor area, and setbacks do not change.

2. Density: Not to exceed 20 units per acre.

3. The non-residential use portion of the building shall be a minimum of 25% of the total gross square feet of the building. Applicants may request a reduction in the percentage of non-residential use for projects that create workforce housing as defined in RSA 674:58-61.

4. Application. Applicants shall be required to submit an application for a Conditional Use Permit in such detail as may be set forth in regulations established by the Planning Board.

5. Appeals. Appeals concerning the issuance of the Conditional Use Permit shall be to Superior Court as provided for in RSA 676:15.

G. Conditional Use Permit. The Planning Board may issue a Conditional Use Permit to allow a mixed-use multi-family dwelling in the GC District subject to the terms of this section, if the Board determines the proposal conforms to all of the following conditional use permit criteria (except for specific criteria that are deemed by the Planning Board to not be pertinent to the application).

1. Site Suitability: The site is suitable for the proposed use. This includes:
 - a. The availability of appropriate utilities to serve the intended use including water, sewage disposal, stormwater disposal, electricity, and similar utilities.
- 2.—Availability of Public Services and Facilities: Adequate and lawful facilities or arrangements for sewage disposal, solid waste disposal, water supply, utilities, drainage and other necessary public or private services, are approved or assured to the end that the use will be capable of proper operation. In addition, it must be determined that these services will not cause unnecessary demand on municipal services, including but not limited to, water, sewer, and waste disposal.

Section 165-35 Office/Medical/Business District (OMB)

B. Permitted Uses. Land use activities permitted within this district shall be limited to the following, and further, shall be subject to such other limitations as are specified herein: **(Revised 07/19/2013)**

1. Business and professional offices such as those for doctors, dentists and related health care facilities;
2. Single family detached dwellings;
3. Single family detached dwellings containing a maximum of one business or professional office of the type described herein;
4. Those uses allowed pursuant to Section 165-32.A.1 **(Revised 07/19/2013)**
5. Wireless communications facilities
6. Congregate Care Facilities, Assisted Living Facilities **(Effective 5/17/07)**
 - a. Congregate Care Facilities and Assisted Living Facilities shall be exempt from the Article XIV - Growth Management Ordinance. There shall be a deed restriction that these facilities cannot be converted into multi-family units.
 - b. Maximum building structure height : 60 feet
 - c. These facilities shall be subject to the Architectural Design Review Regulations contained within Article XIV of the Land Development Control Regulations (LDCR)
7. Asian Bodywork Therapist /Reflexology/Structural Integrator (Effective 2/21/25)
8. Dwelling, Multi-Family

E. Multi-family Residential uses are only permitted as a mixed use in conjunction with permitted non-residential uses and shall be approved through a Conditional Use Permit issued by the Planning Board following a duly noticed public hearing, pursuant to RSA 674:21, II. The public hearing shall take place at the same time as the hearing to review the site plan for the project.

1. When an existing building is being converted to multi-family or mixed use purposes, an exemption is permitted for setbacks, height, or frontage, providing the original building's height, floor area, and setbacks do not change.
2. Density: Not to exceed 12 units per acre.
- 1.3. The non-residential use portion of the building shall be a minimum of 25% of the total gross square feet of the building. Applicants may request a reduction in the percentage of non-residential use for projects that create workforce housing as defined in RSA 674:58-61.
4. Application. Applicants shall be required to submit an application for a Conditional Use Permit in such detail as may be set forth in regulations established by the Planning Board.
5. Appeals. Appeals concerning the issuance of the Conditional Use Permit shall be to Superior Court as provided for in RSA 676:15.

F. Conditional Use Permit. The Planning Board may issue a Conditional Use Permit to allow a mixed-use multi-family dwelling in the OMB District subject to the terms of this section, if the Board determines the proposal conforms to all of the following conditional use permit criteria (except for specific criteria that are deemed by the Planning Board to not be pertinent to the application).

1. Site Suitability: The site is suitable for the proposed use. This includes:
 - a. The availability of appropriate utilities to serve the intended use including water, sewage disposal, stormwater disposal, electricity, and similar utilities.
2. Availability of Public Services and Facilities: Adequate and lawful facilities or arrangements for sewage disposal, solid waste disposal, water supply, utilities, drainage and other necessary public or private services, are approved or assured to the end that the use will be capable of proper operation. In addition, it must be determined that these services will not cause unnecessary demand on municipal services, including but not limited to, water, sewer, and waste disposal.