

# TOWN OF DARIEN ZONING LAW

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## ARTICLE VII REQUIREMENTS BY DISTRICTS

### SECTION 701 LDR – LOW DENSITY RESIDENTIAL DISTRICT

The LDR is designed primarily to provide an area for scattered residential development on larger size lots in order to maintain the low-density nature of those specific areas.

#### A. Permitted Primary Uses

1. Single-family dwelling
2. Two-family dwelling
3. Church and other similar place of worship, parish house, convent, cemetery, and other such facilities.
4. Public park, playground, and facilities deem appropriate by the Town Board
5. Farms and related farming activities, buildings and structures, excluding animal waste storage facilities (see Subsection C of this Section)

#### B. Permitted Accessory Uses

1. Customary residential storage buildings/structures
2. Other customary accessory residential structures such as private swimming pools, fireplaces, etc.
3. Private stable
4. Satellite dish
5. ~~Home occupation (See Sec. 809) [LL No. 2 of 2012]~~
6. Roadside stand (See Sec. 810)
7. ~~Small wind energy system (SWES) (applicable only in 701 A. 5.) (see Sec. 819) [LL No. 2 of 2007] [LL No. 2 of 2012]~~
8. Dog Kennel (parcel of property must be ten (10) or more acres in size) [LL No. 2 of 2012]

#### C. Uses Permitted With A Special Use Permit

1. Public utility structure
2. Motor vehicle service station and repair shop (See Sec. 805)
3. Mobile home park (See Sec. 803)
4. Cluster residential development (See Sec. 807)
5. Country club and golf course
6. Camping grounds
7. Club
8. Pond (See Sec. 816)
9. Multifamily dwelling
10. Public stable
11. Animal shelter
12. Dog shelter kennel (See Section 821) [LL No. 2 of 2012]

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13. Production model WECS
14. Bed and breakfast
15. Rooming house
16. Noncommercial part-time recreation uses, such as a cabin
17. ECHO unit (See Sec. 812)
18. Animal waste storage facility (See Sec.811)
19. Commercial excavation (See Sec. 806)
20. Child day care facility
21. Adult care facility
22. Farm equipment sales, service and repair
23. Professional office (not exceeding 2,500 sq. ft.)
24. Commercial communication tower
25. Wind energy conversion systems (WECS) (See Sec. 818) [LL No. 2 of 2007]
26. Small wind energy system (SWES) (See Sec. 819) [LL No. 2 of 2007]
27. Home occupation (See Section 809) [LL No. 2 of 2012]

### SECTION 702 MDR – MEDIUM DENSITY RESIDENTIAL DISTRICT

The MDR District is designed primarily to provide an area for somewhat concentrated residential development.

#### A. Permitted Primary Uses

1. Single-family dwelling
2. Two-family dwelling
3. Church and other similar place of worship, parish house, convent, cemetery, and other such facilities
4. Public park, playground and facilities deemed appropriate by the Town Board
5. Farms and related farming activities, buildings and structures, excluding animal waste storage facilities (See Subsection C of this Section)

#### B. Permitted Accessory Uses

1. Customary residential storage buildings/structures
- ~~2. Animal shelters for domestic pets [LL No. 2 of 2012]~~
3. Other customary residential structures such as swimming pool, fireplace and the like
- ~~4. Home occupation (See Section 809) [LL No. 2 of 2012]~~
5. Roadside stand (See Section 810)
- ~~6. Small wind energy system (SWES) (applicable only in 702 A. 5.) (see Sec. 819) [LL No. 2 of 2007] [LL No. 2 of 2012]~~

#### C. Uses Permitted With A Special Use Permit

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1. Public utility structure
2. Country club and golf course
3. Mobile home park (See Section 803)
4. Cluster residential development (See Section 807)
5. Multifamily dwellings
6. Bed and breakfast
7. Rooming house
8. Private stable
9. Club
10. Production model WECS
11. Satellite dish
12. Funeral home
13. Child day care facility
14. Adult care facility
15. Professional office (not exceeding 2,500 sq. ft.)
16. Small wind energy system (SWES) (See Section 819) [LL No. 2 of 2007]
17. Animal shelters (See Section 822) [LL No. 2 of 2012]
18. Home occupation (See Section 809) [LL No. 2 of 2012]
19. Dog kennel (See Section 821) [LL No. 2 of 2012]

### **SECTION 703                      REC – RECREATIONAL DISTRICT**

The REC District is designed to provide areas within the Town for large scale active and/or passive recreation activities.

#### **A. Permitted Primary Uses**

Public and commercial recreational facilities including, but not limited to, amusement parks, camping facilities, theaters, swimming facilities, retail stores, sports field and restaurant, which are not directly accessible from public roads. Site plan review by the Planning Board shall be required in accordance with Section 908.

#### **B. Permitted Accessory or Secondary Uses (Site Plan Review and Approval Not Required)**

Buildings, structures and amusement rides under two thousand five hundred (2500) square feet and under thirty five (35) feet high and not directly accessible from public highway and wholly within the existing facility, subject only to review by the Zoning Enforcement Officer.

#### **C. Uses Permitted With A Special Use Permit**

Public and commercial recreation facilities including, but not limited to, amusement parks, camping facilities, theaters, swimming facilities, retail stores,

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sports fields, pond and restaurants, which are directly accessible from public roads.

### D. Existing Residential Uses

Residential uses legally existing on the date of adoption of this Zoning Law, may be altered, repaired, rehabilitated, or remodeled provided such changes are in compliance with the appropriate area criteria found in the MDR District.

## SECTION 704 C – COMMERCIAL DISTRICT

The C District is designed to provide areas within the Town for concentrations of commercial uses. These districts are located along major highways to provide for maximum development potential.

### A. Permitted Primary Uses

1. Hotel, motel
2. Restaurant
3. Retail use and/or service
4. Personal service
5. Business and professional office
6. Bank and/or financial institution
7. Wholesale, warehouse and distribution center (enclosed-carried on entirely within a building with no outside storage)
8. Funeral home
9. Contractor's yard
10. Farm equipment sales and service
11. Recreational vehicles sales and service
12. Self-service storage facility

### B. Permitted Accessory Uses

1. Accessory buildings and uses
2. Home occupation (See Sec. 809)
3. Roadside stand (See Sec. 810)

### C. Uses Permitted With A Special Use Permit

1. Indoor recreation
2. Club
3. Drive-in service
4. Gasoline station-marker (See Sec. 805)
5. Gasoline station (See Sec. 805)
6. Motor vehicle sales and/or repair shop (See Sec. 805)
7. Truck stop terminal

8. Public utility
9. Public garage
10. Animal hospital
11. Commercial excavation (See Sec. 806)
12. Child day care facility
13. Adult care
14. Adult business
15. Motor vehicle dismantling (See Sec. 814)
16. Outdoor recreation
17. Enclosed warehouse (carried on entirely within a building, no outside storage)
18. Multi-family dwellings
19. Accessory residential uses (when accessory to a commercial use located on the same lot)
20. Small wind energy system (SWES) (see Sec. 819) [LL No. 2 of 2007]
21. Light industrial use [LL No. 2 of 2007]

**D. Existing Residential Uses**

Residential uses legally existing on the date of adoption of this Zoning Law, may be altered, repaired, rehabilitated, or remodeled provided such changes are in compliance with the appropriate area criteria found in the MDR District.

**SECTION 705**

**MU-CC – COMMERCIAL CENTER MIXED USE ZONE  
DISTRICT [LL No. 2 of 2007]**

The MU-CC District is designed to accommodate development of commercial centers. Commercial centers are activity centers that may vary in size and service area. They can serve several neighborhoods within a surrounding residential area with a mix of retail, office, service, civic and shall have attached residential uses.

**A. Commercial Center Mixed Use Zone Defined**

1. Maximum depth of three hundred (300) feet, measured from the edge of the road right-of-way. The Commercial Center Mixed Use Zone shall not exceed the depth of an existing lot of less than three hundred (300) feet (i.e., a lot which dimensions are three hundred (300) feet frontage equal side yard lot lines of two hundred seventy-five (275) feet and a rear lot line of three hundred (300) feet. In this case the Commercial Center Mixed Use Zone shall not exceed two hundred seventy-five (275) feet).
2. MU-CC #1 - The Low Density Residential area from the north bounds of Darien Tax Map # 2-1-42, southerly along the east side of Route 77 (Allegany Road) to the south bounds of Darien Tax Map # 11-1-5.12. (Excluding Flagley Cemetery and State Park property). The Low Density Residential area from the north bounds of Darien Tax Map # 2-1-54.22,

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southerly along the west side of Route 77 (Allegany Road) to the south bounds of Darien Tax Map # 10-1-16.2.

3. MU-CC #2 - The Low Density Residential area from the from the east bounds of Darien Tax Map # 9-1-16.114, westerly along Broadway road to the west property line of Darien Tax Map # 9-1-16.114. The depth of the area shall be measured from Broadway road, northward three hundred (300) feet.

### B. Special Use Permit Requirement.

All permitted uses identified in paragraph C. below, shall require Special Use Permit Approval in accordance with this Zoning Law, Section 908 B.2. and Section 908 D. Special Use Permit.

### C. Uses Permitted With a Special Use Permit

1. Hotel, motel
2. Restaurant
3. Retail use and/or service
4. Indoor recreation
5. Club
6. Drive-in service
7. Gasoline station-market (See Sec. 805)
8. Gasoline station (See Sec. 805)
9. Motor vehicle sales and/or repair shop (See Sec. 805)
10. Public utility
11. Animal hospital
12. Child day care facility
13. Adult care
14. Outdoor recreation
15. Accessory residential uses (when accessory to a commercial use located on the same lot)
16. Personal service
17. Business and professional office
18. Bank and/or financial institution
19. Distribution center (enclosed-carried on entirely within a building with no outside storage)
20. Funeral home
21. Agricultural equipment sales and service
22. Recreational vehicles sales and service
23. Self-service storage facility

### D. Permitted Accessory Uses

1. Accessory buildings and uses

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2. Roadside stand (See Sec. 810)

E. Existing Residential Uses

Residential uses legally existing on the date of adoption of this Zoning Law, may be altered, repaired, rehabilitated, or remodeled provided such changes are in compliance with the appropriate area criteria found in the LDR District.

### SECTION 706

### MU-NC – NEIGHBORHOOD CENTER MIXED USE ZONE DISTRICT [LL No. 2 of 2007]

The MU-NC District is designed to accommodate development of neighborhood centers. Neighborhood centers are intended to be small, low impact, limited use centers. They are typically pedestrian and bicycle-oriented with limited parking for motor vehicles. Neighborhood centers are generally well integrated into the fabric of the surrounding residential area. They are intended to serve as an amenity for residents of the immediate neighborhood and support a variety of uses.

A. MU-NC Zoning Overlay District. The MU-NC overlies the following areas:

1. The Medium Density Residential area from the north bounds of Darien Tax Map # 11-1-95, southerly along the east side of Route 77 (Allegany Road) to the south bounds of Darien Tax Map # 11-1-61.11. The MU-NC shall not overlie the Commercial District identified on the Zoning Map in View #2.
2. The Medium Density Residential area from the north bounds of Darien Tax Map #10-1-17, southerly along the west side of Route 77 (Allegany Road) to the south bounds of Darien Tax Map # 10-1-52.

B. Special Use Permit Requirement - All permitted uses identified in paragraph C. below, shall require Special Use Permit Approval in accordance with this Zoning Law, Section 908 B.2. and Section 908 D. Special Use Permit.

C. Uses Permitted With A Special Use Permit - Neighborhood centers should generally include a limited range of convenience goods and services in keeping with the character and scale of the surrounding neighborhood. Primary uses include a limited mix of small-scale neighborhood-serving retail, office, service, civic, and attached residential uses. Neighborhood centers may also include establishments such as professional offices, beauty shops and restaurants. Auto-related uses or other uses that produce noxious fumes or excessive light and noise and Drive-up and drive-through uses are prohibited within a neighborhood center. Appropriate residential types may include second floor units located above retail uses. Drive-up and drive-through uses are excluded.

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- D. Existing Residential Uses - Residential uses legally existing on the date of adoption of this Zoning Law, may be altered, repaired, rehabilitated, or remodeled provided such changes are in compliance with the appropriate area criteria found in the MDR District.

### **SECTION 707 I – INDUSTRIAL DISTRICT**

The I District is designed to provide areas within the Town which are appropriate for industrial type uses. In limiting industrial uses to I District, it is the Town's intention to minimize the potential adverse impacts of such uses.

#### **A. Permitted Primary Uses**

1. Enclosed manufacturing industries (enclosed-carried on entirely within a building, no outside storage)
2. Enclosed warehouse or wholesale use (enclosed-carried on entirely within a building – no outside storage)
3. Enclosed service and repair
4. Machinery and transportation equipment, sales, service and repair
5. Enclosed industrial processes and service
6. Freight or trucking terminal
7. Contractor's yard
8. Public garage
9. Self-service storage facility

#### **B. Permitted Accessory Uses**

1. Accessory buildings, structures and uses

#### **C. Uses Permitted With A Special Use Permit**

1. Gasoline station (See Sec. 805)
2. Gasoline station-market (See Sec. 805)
3. Commercial excavation (See Sec. 806)
4. Junkyard (See Sec. 808)
5. Public utility
6. Recyclables handling and recovery facility
7. Disposal transfer station
8. Unenclosed service and repair
9. Unenclosed industrial processes and services
10. Pond (See Sec. 816)

### **SECTION 708 PLANNED UNIT DEVELOPMENT (PUD)**

The purpose of the Planned Unit Development is to permit greater flexibility, more creative and imaginative design and utilization of innovative land development



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techniques while promoting more economical and efficient use of land, buildings, circulation systems and utilities, to provide harmonious land uses which offer a high level of amenities, to permit a mixture of residential and/or nonresidential areas, and to preserve natural and scenic qualities of the site during the development process.

### A. Procedure For Creation Of A PUD District

1. The owner of any tract of land in the Town of Darien consisting of a minimum of five (5) contiguous acres, may petition the Town Board through the Planning Board to Designate the property described in the petition as a PUD District,
2. The petition shall contain the exact name and address of the petitioner and reference records in the office of the Genesee County Clerk at which the deed conveying the property in question to the petitioner is recorded.
3. A PUD District may be created by the Town Board in accordance with the procedures detailed in Subsection B of this Section.

### B. Procedure For Approval

1. Pre-Application Conference - Before submission of a preliminary application for approval as a Planned Unit Development, the developer is encouraged to meet with the Town Planning Board to determine the feasibility and suitability of his application before entering into any binding commitments or incurring substantial expenses of site plan preparation.
2. Preliminary Plan (Rezoning)
  - a. Planning Board Review and Approval – A preliminary plan application shall be submitted to the Planning Board at least fifteen (15) days prior to a regularly scheduled meeting.
    - (1) Within sixty-two (62) days of that regular scheduled meeting, the Planning Board shall recommend approval, approval with modifications or disapproval of the application to the Town Board. Failure by the Planning Board to act within the required time period shall constitute approval and the application shall be forwarded to the Town Board.
  - b. Submission Requirements – The applicant shall submit six (6) sets of such plans, drawings, elevations, and specifications as may be necessary and comparable to the requirements of subdivision plat approval. These six (6) sets shall be submitted to the Zoning Enforcement Officer.

The preliminary plan shall be accompanied by a detailed justification for the proposal including such maps, charts and written material necessary for the Board to make an impartial judgment on the suitability and impact of the proposed PUD for the Town. Such material shall include, but not be limited to, the following:

- (1) A mapped preliminary development plan of the property covered by the petition showing the approximate size and location of the various development areas (road rights-of-way, single-family housing areas, multi-family housing areas, commercial and open space areas, etc.) the number of residential structures and dwelling units within each residential area, the approximate square footage of nonresidential use within each nonresidential area and the amount of open space.
  - (2) A written description of the proposal including the major planning assumptions and objectives, the probable effect on adjoining properties, the effect on the overall Town development plan and the effect on this Zoning Law.
  - (3) Such additional written material, graphs or charts as are necessary to present the total number of acres in the site, the number and type of housing units, the gross and net residential densities, the approximate selling an/or rental prices of the units, and square feet of nonresidential floor area including the approximate selling and/or rental price, the development schedule expressed in units per month (or year or any other appropriate time sequence), the phasing plan (if any), the approximate completion date of the entire project, and the estimated total construction cost of the project upon completion.
  - (4) Such other written or graphic material as is necessary for the Board to judge the impact of the proposal on the Town. Such material shall include, but not be limited to: the need for new public facilities and the adequacy of existing facilities including a statement of the intent to which the applicant intends to provide needed facilities, a fiscal impact statement including a summary of new costs and revenues to the Town due to the development, the projected new population, and the method of assuring that all open spaces will be permanently maintained and devoted to open space uses.
- c. Review Consideration – In review of the preliminary plans, the Planning Board shall consider the manner with which the proposal

fits the general pattern of land use established by the Zoning Law, and the protection of the established and permitted uses in the area. It shall consider: the location of main and accessory buildings and their relation to one another; the circulation pattern of the site, and the amount, location, and access of parking and off-street loading space facilities; the height and bulk of buildings; the provision of open spaces, landscaped areas, signs, and similar features of the site plan; and the safeguards provided to minimize possible detrimental effects of the proposed development on adjacent property and the surrounding neighborhood; the manner of conformance with the official development policies of the Town; the effect on schools and other municipal facilities; and the manner in which natural and scenic characteristics of the site are preserved.

- d. Town Board Review and Approval – Upon receipt of the Planning Board’s recommendations, the Town Board may, after a public hearing and forwarding the proposed zone change to the County Planning Board for review, amend the Zoning Law so as to establish and define the boundaries of the Planned Unit Development. If the rezoning request is approved to the PUD, such action does not authorize improvements to the rezoned land.

3. Final Plan

- a. Ownership – Before final approval of the PUD plan, the applicant must show evidence of the full legal ownership in the land.
- b. Planning Board Review and Approval – Upon approval of the zone change, the applicant has one (1) year in which to submit a final plan to the Planning Board for review and recommendation to the Town Board. This submittal must be presented at least fifteen (15) days prior to the next regularly scheduled meeting of the Planning Board. Within sixty-two (62) days of that regularly scheduled meeting, the Planning Board shall recommend approval, approval with conditions or disapproval of the application to the Town Board.
- c. Submission Requirements – The applicant shall submit detailed site plans comparable to the requirements for final approval of a subdivision plat.
- d. Town Board Review and Approval – The Town Board shall make final approval in accordance with official town development policies and may impose reasonable conditions relating to that plan.

C. Design Standards

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1. Area Requirements - Area, yard, coverage, height, density and supplementary regulation requirements shall be comparable to minimum requirements in appropriate zoning districts for each specific use, except each proposed lot's front line shall be measured from the setback of the front of the dwelling which is intended to be built from side lot line to the opposite side lot line and where the Planning Board finds that it is in the public interest to modify these requirements. [LL No. 2 of 2012]
2. Traffic and Circulation - All proposed public roads should meet municipal design and construction specifications. Special consideration should be given to pedestrian movement from the standpoint of safety, convenience and amenity. Sidewalks, curbs and gutters should be considered in the design of the overall circulation system.
3. Common Open Space - All common open space should be preserved and maintained for the intended purpose through one or more of the following methods:
  - a. Public dedication
  - b. Establishment of a Home Owners Association
  - c. Retention of responsibilities, control and maintenance by the developer
4. Performance and Maintenance Bonds - Performance and maintenance bonds may be required at the discretion of the Town Board.