

Legal Publication

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ORDINANCE NO. 2639**AN ORDINANCE AMENDING THE ZONING REGULATIONS OF THE CITY OF DERBY, KANSAS, AS FIRST ADOPTED BY ORDINANCE NO. 940 AND SUBSEQUENTLY AMENDED, MOST RECENTLY INCORPORATED BY REFERENCE VIA ORDINANCE NO. 2500 AND MOST RECENTLY AMENDED BY ORDINANCE NO. 2605.**

WHEREAS, the City of Derby, Kansas (hereinafter "City") is granted authority by the statutes of the State of Kansas in K.S.A. 12-757 to amend existing zoning regulations; and

WHEREAS, the Planning Commission on November 20, 2025, initiated an amendment of the existing zoning regulations after the annual review of the Vision Derby 2040 Comprehensive Plan determined that amendments to the zoning regulations are warranted; and

WHEREAS, the Planning Commission gave proper notice in the official City newspaper on March 25, 2026, and held a public hearing on April 6, 2026, at which time an opportunity was granted to interested parties to be heard; and

WHEREAS, at the conclusion of the public hearing the Planning Commission voted to recommend approval of amendments to the zoning regulations and transmitted the same to the Governing Body, along with an accurate written summary of the proceedings of the public hearing; and

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DERBY, KANSAS:

Section 1. The Zoning Regulations of the City of Derby, Kansas as incorporated by reference in Section 17.04.010 of the Derby Municipal Code (hereinafter "Regulations") are hereby amended as follows:

1. The following definitions found in Article 202 of the Regulations are hereby amended to read as follows:

BASIC INDUSTRY: An establishment engaging in the basic processing and manufacturing of products predominately from extracted or raw materials, or a use engaging in storage or manufacturing processes which involve or have the potential to involve commonly recognized offensive or dangerous conditions, or a use engaging in processes which involve or have the potential to involve high utilization of resources such as, but not limited to, water and electricity. Typical uses include fat rendering plants; poultry and rabbit dressing; pulp processing and paper products manufacturing; stockyards; slaughter houses; commercial feed lots; primary smelting of base metals from ore; tanneries or the storage of rawhides or skins; acid manufacture; cement, lime, gypsum, or plaster of Paris manufacture; creosote or tar treatment; distillation of bones; fertilizer manufacture; garbage; offal or dead animal incineration or reduction; explosives or fireworks manufacture or storage; glue and soap manufacture; petroleum processing and refineries; industrial hemp processing; data centers and similar uses.

EQUIPMENT RENTAL AND SALES BUSINESS: A business whose trade is characterized by the renting and/or sales of the following types of equipment: 1) miscellaneous hand operated equipment and tools, 2) non trailer mounted generators, air compressors, pumps, sweepers and similar non trailer mounted equipment, 3) lawn mowers, 4) portable concrete mixers which do not exceed a maximum capacity of 9 cubic feet, 5) vertical lifts which do not exceed a 25-foot maximum working height, 6) lawn and garden tractors which do not exceed 30 horsepower, 7) miscellaneous utility or light construction equipment which does not exceed 30 horsepower, 8) trucks which do not exceed a gross vehicle weight of 14,000 pounds, 9) vehicles used for moving purposes that are equipped with a van or bed area that does not exceed 10 feet in length, 10) trailers which do not exceed 12 feet in length, 11) portable signs, 12) scaffolding, and 13) similar equipment. In addition, a business which is defined as an equipment rental and sales business shall not store or display on site heavy construction or farm equipment such as, but not limited to, earth movers, graders, bulldozers, scrapers, dump trucks, combines, trenching shields, rollers that exceed 30 horsepower or any of the above-referenced equipment identified as permitted, which exceeds established size, weight or horsepower maximums. A business such as a hardware store, home improvement center or garden center that occasionally rents hand tools and equipment or lawn maintenance or gardening equipment shall not be construed to be an equipment rental and sales business, unless the business is renting or selling concrete mixers, vertical lifts, construction equipment, trucks, vehicles, trailers, portable signs, scaffolding, and similar equipment. A business whose trade involves the rental of kitchen appliances such as stoves, refrigerators, washing machines and similar appliances or equipment shall also not be construed to be an equipment rental or sales business.

2. Article 303.E.2.c. of the Regulations is hereby amended to read as follows:

c. open and closed fences not exceeding eight feet in industrial districts and six feet in height in all other districts provided that such fences shall not be constructed of metal paneling, woven wire, or welded wire, except in the M-1 District or in all other districts when decorative metal paneling is framed by another permitted fence material, and further provided that such fences located in residential districts do not extend beyond the corner of a principal structure into any open area fronting on a street for which the facade has been designated for the property address number, except that such fences may extend to the building setback line of a corner lot, including the reduced corner lot setback provided for in these regulations, for which the facade has not been designated, and except the portion of the side yard extending beyond the corner of the principal structure may be fenced if the side yard on the abutting property also is fenced, provided that fence shall be no closer to the street than the fence on the abutting property and no portion of the fenced area shall extend into any required front yard. Additionally, dwellings without a door into the side or rear yard and with a front door that is recessed behind the front wall of the dwelling at least 15 feet, an area that provides fenced access from the front door to the side and/or rear yard is permitted provided that the fence is located no closer than one-half distance from the recessed front door to the front wall of the dwelling and further provided that fence includes a gate of at least 80% opacity providing visibility of the front door from the street.

3. The entirety of Article 303.G. of the Regulations is hereby amended to read as follows:

G. Building Variety Standards

For lots platted after January 1, 2022, building variety standards shall apply to permits issued after July 1, 2026, for single-family, zero-lot line (ZLL), single-family attached, or two-family dwellings. No dwelling shall be similar in appearance to another dwelling as follows, further provided that similar dwellings shall not be located on immediately adjoining lots or directly across the street:

1. For non-corner lots, a dwelling shall not be similar to up to two dwellings with which it shares a side lot line and one dwelling located across the street.
2. For corner lots, a dwelling shall not be similar to one dwelling with which it shares a side lot line and two dwellings located across the street.
3. For lots on a cul-de-sac, similar dwellings shall not be permitted on lots for which more than 50% of the lot frontage abuts the turnaround. Cul-de-sac lots for which less than 50% of the lot frontage abuts the turnaround shall be considered non-corner lots or corner lots, as applicable.
4. For lots without a dwelling across the street, a dwelling shall not be similar to any dwelling with which it shares a side lot line, except for dwellings on corner lots, which shall not be similar to dwellings on the two nearest lots on the same block face. Dwellings with a different roof type; different width and/or height; or different shape of the silhouette of the front elevation are not similar in appearance. Dwellings determined to be similar in appearance shall be differentiated by three (3) or more of the following characteristics, which must be in at least two of the following three categories:

1. Roof lines, which can be differentiated by:
 - a. Gable roof addition to a predominately hip roof,
 - b. Hip roof addition to a predominately gable roof,
 - c. Gable or hip projections above windows,
 - d. Window dormers,
 - e. Change in soffit overhang or eave height, or
 - f. Addition of skylights, cupolas, or similar treatments.
2. Windows, which can be differentiated by:
 - a. Size, location, or type of windows,
 - b. Changing from single windows to a multiple window arrangement,
 - c. Changing from a multiple window arrangement to a single window, or
 - d. Providing a bay window or other decorative window treatment in a prominent location on the front facade.
3. Exterior Materials, which can be differentiated by:
 - a. Width of siding material,
 - b. Orientation of siding material (horizontal or vertical),
 - c. Brick facing,

- d. Stone facing,
- e. Stucco or similar facing, or
- f. Color change, which cannot be merely a shade change.

4. Article 304.I.1.d. of the Regulations is hereby amended to read as follows:

d. **MATERIALS USED FOR SCREENING WALLS AND FENCES.** Walls or fences erected to satisfy the screening requirements of this subsection shall be constructed of brick, stone, masonry, architectural tile, concrete or wood (including composite products) or a combination of those materials, but may not include the use of chain link with slats, woven wire, welded wire or metal panels, except that metal panel screening fences are permitted in the M-1 zoning district on properties with a principal structure with predominately metal exterior building materials. Walls or fences erected to satisfy the screening requirements of this subsection shall be per a plan approved in accordance with subsection 304.E. of these regulations.

5. Article 401A.A.1. of the Regulations is hereby amended to read as follows:

1. Residential Uses:
 - a. Accessory Dwelling Unit, subject to Use Limitation 401A.F.5.
 - b. Group Home.
 - c. Residential-Design Manufactured Home, subject to Use Limitation 401A.F.1.
 - d. Single-Family Dwelling.
 - e. Single-Family Attached Dwelling, subject to Use Limitation 401A.F.6.
 - f. Short-Term Rental, subject to Use Limitation 401A.F.4. and Regulation 1105.J.1.
 - g. Two-Family Dwelling, subject to Supplemental Regulation 1101.D.9.

6. Article 401.A.B.1 of the Regulations is hereby amended to read as follows:

1. Residential Uses:
 - a. Multi-Family Dwelling, subject to Supplemental Regulation 1101.D.9.

7. The entirety of Article 401A.C. of the Regulations is hereby amended to read as follows:

C. General Conditions

1. Land used for Zero Lot Line (ZLL), Single-Family Attached, and Two-Family dwellings in a R-1A District:
 - a. Shall be located as a self-contained unit of exclusively Zero Lot Line (ZLL), Single-Family Attached, or Two-Family development, which shall be limited to no more than two adjoining blocks comprised of: (1) a group of homes surrounding a cul-de-sac, which shall not exceed the length permitted Article 602.J. of the Subdivision Regulations; (2) lots whose front lines are oriented to face similar types of lots across a street and are located on a block face not exceeding the length permitted by Article 603.B. of the Subdivision Regulations; or (3) lots which face multi-family or non-residential land uses, either existing or potentially to be developed, which are located on a block face not exceeding the length permitted by Article 603.B. of the Subdivision Regulations,
 - b. A self-contained unit of exclusively Zero Lot Line (ZLL), Single-Family Attached, or Two-Family development shall be located at least 660 feet from another self-contained unit and a lot zoned R-2 "Two-Family Residential"; shall be located at least 330 feet from a lot zoned R-1, R-1B, or R-1C; and shall not include lots that front a collector or arterial street.
 - c. Shall, as a condition of zoning, be platted according to City Subdivision Regulations with specific attention given to any problems of drainage or utility easements, which may be created by the particular design concept.
 2. A fencing and/or screening design plan for all ZLL lots shall be submitted showing how privacy for each lot and its relationship to other lots will be achieved.
 3. To ensure privacy, no windows, doors or other openings shall be permitted on a wall located on a property line. Such wall shall be constructed of the same material as the other exterior walls of the dwelling unit.
 4. Proposed restrictive covenants shall be submitted guaranteeing the maintenance of the fencing and/or screening plan, access for maintenance of structures in close proximity to one another, and other restrictions necessary to carry out the intent of the overall design concept.

8. Article 401A.E.2.b. of the Regulations is hereby amended to read as follows:

a. Minimum side yard: 5 feet, except none is required for the common lot line of an attached dwelling. For ZLL dwellings, a minimum of 10 feet shall be maintained between the adjacent residential structures. Overhanging eaves and gutters are permitted by Section 303.E.1.; provided, that provisions for their extension and maintenance over adjacent property is contained in the restrictive covenants.

9. Article 401A.F.5. of the Regulations is hereby established as follows:

5. Accessory Dwelling: A maximum of one accessory dwelling may be allowed on the same lot as a principal dwelling subject to the following standards, provided, however, no more than two dwelling units are permitted on a lot.
 - a. The accessory dwelling shall be limited to no more than 75% of the area of the principal dwelling or the maximum size permitted by the maximum lot coverage, whichever is less;
 - b. The appearance of an accessory dwelling shall be compatible with the principal dwelling and with the character of the neighborhood and shall use siding materials and roof designs compatible with dwellings in the neighborhood;
 - c. Accessory dwellings shall remain accessory to and under the same ownership as the principal dwelling. Ownership shall not be divided or sold as a separate dwelling unit;
 - d. Accessory dwellings shall conform to the bulk regulations for accessory structures specified in Section 600.C;
 - e. A separate driveway from that provided for a principal dwelling shall not be permitted for an accessory dwelling except on a corner lot or lot with at least twice the required minimum lot width;
 - f. If an on-street parking space is not available adjacent to the lot on the same side of the street, one off-street parking space is required for the accessory dwelling in addition to the off-street parking spaces required for the principal dwelling. If an off-street parking space is required for the accessory dwelling, it may be located within a required front yard, provided that a parked vehicle does not overhang into the street right-of-way; and
 - g. Utility services provided to the accessory dwelling shall not be provided as separate service from the principal dwelling. Accessory dwellings may be connected to the same septic system as the principal dwelling; provided the septic system is designed with enough capacity to adequately serve the total number of occupants residing in both the principal dwelling and the accessory dwelling, as determined by the City's Building Trades Official.

10. Article 401A.F.6. of the Regulations is hereby established as follows:

6. Single-Family Attached/Two-Family Dwelling: A maximum of two dwelling units per lot, which shall have a minimum permitted lot area of 4,800 square feet, may be allowed subject to the following standards:
 - a. The appearance of single-family attached/two-family dwellings shall be compatible with the character of the neighborhood and shall use siding materials and roof designs compatible with dwellings in the neighborhood;
 - b. A pedestrian-scaled entry shall be a prominent feature of the front façade with entry doors oriented to the street in front of each dwelling unit;
 - c. A garage facing the street shall occupy no more than 50% of the ground-level façade facing the street and shall project no farther than five feet from the front wall line of the dwelling;
 - d. Required off-street parking shall not be located in front of the dwelling except additional accessory off-street parking may be located on a driveway to a garage, provided that a parked vehicle does not overhang into the street right-of-way;
 - e. The façade facing the street shall contain transparent, glazed areas not less than 10% of the area from the base of the dwelling to the start of the roofline for any other vertical wall of interior living space facing the street. The total wall area shall exclude gabled portions of the facade not containing livable area. The glazed area on doors, including garage doors, shall not be included in the calculation of the required area of glazing; and
 - f. Dwellings shall comply with the Building Variety Standards of Article 303.G.

11. Article 407.E.9. of the Regulations is hereby amended to read as follows:

9. Business and professional offices shall not exceed 4,000 square feet of floor area, unless the building has a minimum 100-foot setback from property zoned R-1 or R-2.

12. Article 407.E.11. of the Regulations is hereby amended to read as follows:

11. Medical service businesses shall be limited to 4,000 square feet of floor area or less and shall not include emergency or 24-hour services, unless the building has a minimum 100-foot setback from property zoned R-1 or R-2.

13. Article 409.E.1.e. of the Regulations is hereby amended to read as follows: