

ORDINANCE #2002-10

An Ordinance Relative to the

Amend Zoning Ordinance - (New) Section XV - Growth Management and Innovative Land Use Control

First Reading: 06/17/02

Second Reading: 07/15/02

Adopted: 07/15/02

WHEREAS the Londonderry Planning Board, on June 5, 2002, adopted the provisions of a new Section XV - Growth Management and Innovative Land Use Control and,

WHEREAS the Londonderry Town Council wishes to amend the Zoning Ordinance to reflect the Planning Board's action; and,

WHEREAS the Londonderry Town Council is desirous of maintaining its policies and municipal code through periodic update as administrative conditions require;

NOW THEREFORE BE IT RESOLVED by the Londonderry Town Council that the Municipal Code, Title III - Land Use Codes, Chapter I - Zoning Ordinance, is hereby revised by adding a new Section XV - Growth Management and Innovative Land Use Control a revised copy of which is attached, is hereby adopted. Further, that all subsequent sections of the Zoning Ordinance be renumbered to accommodate the addition.

John Silvestro - Chairman
Town Council

(TOWN SEAL)

Marguerite Seymour - Town Clerk/Tax Collector

A TRUE COPY ATTEST:

***07/15/02 Londonderry Municipal Code Title III - Land Use Codes Rev. July 15,
2002***

SECTION XV—GROWTH MANAGEMENT AND INNOVATIVE

LAND USE CONTROL

1501 Authority

The section is enacted in pursuant to RSA 674:21 and 674:22.

1502 Purposes - The purposes of this section of the Zoning Ordinance are as follows:

- A. Promote the development of an economically sound and environmentally stable community, which considers and balances regional development needs.*
- B. Guide efforts by the Town to monitor, evaluate, and establish a rate of residential growth in Londonderry that is consistent with the Town's capacity for planned, orderly, and sensible expansion of its services to accommodate such growth.*
- C. Provide a temporary mechanism when municipal services are strained or overloaded to reduce the rate of residential growth to allow the Town time to correct any deficiencies that have developed.*
- D. Protect the health, safety, convenience, and general welfare of the Town's residents.*
- E. This ordinance is grounded upon its correlation with the Master Plan and Capital Improvements Plans of the Town of Londonderry.*

1503 Findings - The Town hereby finds that:

- A. Londonderry's developable land resources are still sufficient to support extensive growth. The 1997 Master Plan for the Town of Londonderry indicates there were 5,884 acres of available developable land in 1996.*
- B. Housing demand has been and is projected to be large. The number of housing units in Londonderry increased 47% between 1980 and 1990, and grew another 14.53% from 1990 to 2000. Studies made for the 1997 Master Plan project another 22.98% increase from 2000 to 2010.*
- C. Londonderry population growth reflects housing growth that has been and is projected to be large. Londonderry population increased at an average annual rate of 3.15% over a twenty-year period from 1980-2000. Total population grew 46% between 1980 and 1990, and another 17.5% from 1990 to 2000. Projections of population growth to 2020 indicate average annual growth rates between 2000 and 2020 ranging from a low of 2.07% (Office of State Planning, 1997) to a high of 2.14% (Master Plan, 1997). The rate of growth is predicted to accelerate based on a study of the Secondary Impacts of the I-93 Widening project prepared by Parsons Brinckerhoff Quade & Douglas, Inc. for the New Hampshire Department of Transportation.*

**SECTION XV—GROWTH MANAGEMENT AND INNOVATIVE
LAND USE CONTROL (Cont'd)**

1503 Findings - The Town hereby finds that: (Cont'd)

D. The Town is straining to meet projected service and facility demands. For example, the 1997 Master Plan projects a continuing 2% per year pupil enrollment growth through 2010. The most recent Capital Improvements program (CIP) includes a new \$12 million School Building Program in fiscal year 2002-2003. The Master Plan projects a 2.4% annual growth in local auto trip generation, certain to demand road improvements. Police and fire facilities, for which improvements are already sought, will be further strained by continuing rapid growth.

1504 Determining Maximum Sustainable Growth.

Not later than March 1 of each year, the Planning Board shall determine Londonderry's maximum sustainable rate of residential development for the twelve months beginning March 1 of that year. The maximum annual sustainable rate of growth shall be the highest figure that does not exceed a 2.0% increase in Londonderry's housing stock over the preceding calendar year and also does not exceed more than two of the following three measures:

- A. The average rate of dwelling unit authorizations in Londonderry over the six preceding calendar years;*
- B. A percentage increase in housing units over the preceding calendar year equal to the rate of increase in housing units for that preceding year summed across the six municipalities which abut Londonderry (Auburn, Derry, Hudson, Litchfield, Manchester, and Windham)*
- C. The maximum rate of dwelling unit authorizations whose projected demands can be adequately serviced and provided with facilities at a prudent level of fiscal strain, based upon the following:*
 - 1. The rate of residential development at which the number of pupils projected by the Londonderry School Board to be enrolled in the Londonderry School System would not in any year exceed the stated capacity of the Londonderry School System in that year, based upon facilities development as contained in the Capital Improvement Program most recently approved by the Planning Board, and/or*
 - 1. The rate of residential development determined by the Planning Board based upon careful studies and consultation with the agencies involved to be the highest which would not exceed the Town's capacity to service growth with public facilities other than schools, as planned in the six-year Capital Improvement Program most recently approved by the Planning Board, together with facilities anticipated to be provided by developers and others, and/or*

**SECTION XV—GROWTH MANAGEMENT AND INNOVATIVE
LAND USE CONTROL (Cont'd)**

1504 Determining Maximum Sustainable Growth.

C The maximum rate of dwelling unit....(cont'd)

- 2. The combined municipal and school appropriations for capital expenditures, including debt service and capital outlay, will on average exceed 15% of the total municipal and school department appropriations combined over the period covered in the current Capital Improvements Program.***

1505 Planning Board Monitoring and Notification

It shall be the responsibility of the Planning Board to monitor growth in the Town and region, assembling as soon as practicable following the end of the calendar year such information as is necessary for making the determination of whether unsustainable growth conditions exist, and if they do, determining the annual rate of development which, at maximum, could be sustained. The Planning Board shall also monitor the progress of the Town and School District in providing services and facilities on the schedules called for in the Capital Improvement Program.

- A. Hearing - Prior to making a final determination of the maximum sustainable annual rate of residential development the Planning Board shall hold a public hearing with ten days notice to seek input from the public.***
- B. Notification - The Planning Board shall notify the Town Council, the Building Inspector, the Town Clerk, and the general public of its determination of the maximum sustainable rate of residential growth by, among other things, posting a notice to that effect in Town Offices. That determination shall apply for a period of one year from the date of notice to the Town Council or, if sooner, until notification of a subsequent determination by the Planning Board under the provisions of Section 1505.***

1506 Limiting the Issuance of Permits

The Planning Board's notice of unsustainable growth conditions shall include notice that limitations on the issuance of permits will be required during the period of such conditions, and notice of what the sustainable annual rate of development has been determined to be, and notice of how many building permits for new dwelling units will be allocated during said period.

1507 Procedures for Permit Limitations

- A. Available building permits shall be allocated according to the following procedure. The number of dwelling units that may be authorized shall not exceed the smaller of (a) the number of units allowed to be authorized that calendar year under Section 1504 but not yet authorized in the current calendar year, or (b) the number of dwelling units comprising a 2% increase in Londonderry housing stock at the beginning of the calendar year minus the number of housing units authorized in the eleven months preceding this determination.***

**SECTION XV—GROWTH MANAGEMENT AND INNOVATIVE
LAND USE CONTROL (Cont'd)**

1507 Procedures for Permit Limitations (Cont'd)

A. (Cont'd)

- 1. Except as otherwise provided in Section XV no building permit may be issued without a permit scoring sheet application (henceforth "application") issued by the Planning Board. For purposes of this section, each proposed dwelling unit in a mobile home, single-family dwelling, two-family dwelling or multifamily dwelling, shall require a separate application sheet.*
- 2. From March 1 through March 21, the Planning Board shall, on a form prepared by the Board, review and score each application for allocation of building permits for the period*
- 3. Prior to April 1, applications will be scored according to the following priority system:*
 - a. First priority shall be given to dwelling units which are exempt from the provisions of Section XV under RSA 674:39 or RSA 676:12.*
 - b. Second priority shall be given to dwelling units in proposed two-lot subdivisions; provided that no more than 10% of the number of available dwelling unit authorizations may be allocated on this basis, and no more than one per subdivision.*
 - c. Priority for any remaining dwelling unit authorizations shall be based upon the number of points earned from the point system described in Section 1507.B.*
 - d. In the event of a tie at the lowest priority or score for which authorizations will be made, the remaining number of unit authorizations shall be divided among all the projects having earned that priority or score. Division shall be in proportion to the number of units each applicant has applied for or, to the extent proportionate permit allocation is impossible, by lottery.*

B. For purposes of determining priority in the system of permit allocation, development shall be assigned points or point debits according to the following:

- 1. For development authorized under either Section 407 Planned Residential Development or Section V Multi-Family Residential: one (1) point;*
- 2. For development proposed to be serviced with Town sewerage, and proposing no dwelling structures within 200 feet of a street other than one created by that development: one (1) point;*

**SECTION XV—GROWTH MANAGEMENT AND INNOVATIVE
LAND USE CONTROL (Cont'd)**

1507 Procedures for Permit Limitations (Cont'd)

B. For purposes of determining priority (Cont'd)

3. For development proposing no construction within lands mapped as recommended open space by the Open Space Task Force and also not assessed under RSA 79-A Current Use Taxation at any time within the preceding three years: one (1) point;
4. For development documented to increase traffic at build-out by no more than 10% on any existing street: one (1) point;
5. For Elderly Housing (age 55 and older) as defined in Section XVI, provided that the owner of record shall enter an agreement, to be filed in the Rockingham County Registry of Deeds, certifying that the project will be utilized and restricted to 100 % elderly occupants as such for a period of no less than twenty years. One (1) point;
6. For development in which at least 25% of the dwelling units proposed will be “affordable:” one (1) point. For these purposes, “affordable” shall mean subject to restrictions limiting sale or lease to households with incomes no higher than 80% of the regional median at rates affordable to them, under administrative guidelines to be adopted and from time to time amended by the Planning Board;
7. For development within a sub area of the Town determined by the Planning Board to have a localized facility capacity shortfall: a two (2) point debit if further growth would seriously inconvenience or disadvantage others already in the neighborhood, such as through school overcrowding; or a one (1) point debit if further growth would constitute a demonstrated threat to health (such as incapacity of waste management facilities) or safety (such as a severe road hazard), provided in such cases that actions have been committed by the Town to address the capacity shortfall.

- C. If by April 1, the surplus permits have not been issued for the year, a second allocation process using the procedure set forth in §1507.A and B shall take place. The Planning Board shall score applications submitted from May 1 through May 21. All applications shall be completed prior to June 1. If necessary a third allocation process shall be held with applications received from August 1 through August 21 and certificates issued by September 1.

**SECTION XV—GROWTH MANAGEMENT AND INNOVATIVE
LAND USE CONTROL (Cont'd)**

1507 Procedures for Permit Limitations (Cont'd)

- D. The owners of the lots scoring enough points to be awarded a building permit for a given period may apply for building permits from the Building Department from April 1 through December 31. Any application scoring enough points to be awarded a building permit that is not applied for by December 31 shall lapse.*
- E. Building permits, which are not used within one year of issuance, shall lapse.*
- F. Lapsed building permits may not be renewed if a notice of unsustainable growth remains in effect. In the case of such a lapsed permit, the number of permits available for the following year shall be increased by one.*
- G. An application earning enough points may be used for a building permit on any lot within the subdivision for which it was awarded but may not be used for lots outside that subdivision.*
- H. Building permits for non-residential construction, or for expansion, alteration, renovation or replacement of existing dwelling units, are not limited by Section XV.*
- I. Nothing in Section XV shall be construed to authorize or require issuance of a building permit that is not eligible for issuance under any other provision of law.*

1508 Applicability

Nothing herein is intended to repeal the former Section XIII (numbered as passed by Article 98-01 by the Town Council), as amended, as it applies to subdivisions and site plans approved subject to the permit limitations of such ordinance. Said ordinance shall continue to apply to such subdivisions and site plans.

1509 Sunset

This Ordinance shall expire on January 1, 2010 unless re-adopted prior to that date

~~End of Section~~