

ORDINANCE #2002-12

An Ordinance Relative to the

Amend Municipal Code - Title III - Land Use Codes Section III - Districts, Renumbering of Sections and Add Appendix "A"

First Reading: 08/12/02

Second Reading: 08/26/02

Adopted: 08/26/02

WHEREAS the Londonderry Town Council voted on February 4, 2002, to adopt the revisions to Section VII, adding Commercial District IV (C-IV), and on August 12, 2002 to adopt the provisions of a New Section VIII - Performance Overlay District, and,

WHEREAS the Londonderry Planning Board has adopted a new "Appendix A" to the Zoning Ordinance, which is a Roadway Classification section; and,

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

WHEREAS the Londonderry Town Council wishes to amend the Zoning Ordinance to reflect said adoptions, and renumber subsequent sections to the code as appropriate,

NOW THEREFORE BE IT RESOLVED by the Londonderry Town Council that the Zoning Ordinance, Section III - Districts, is hereby amended to include the additions of a new District IV and Performance Overlay District to the Ordinance, that sections thereafter be renumbered and that "Appendix A" be added to the Ordinance, copies of which are hereto attached.

John Silvestro - Chairman

Town Council

(TOWN SEAL)

Marguerite Seymour - Town Clerk/Tax Collector

A TRUE COPY ATTEST:

8/26/02

TOWN OF LONDONDERRY, N.H.

ZONING REGULATIONS

REVISED 2002

Section III - (301-302.A.7)

Chapter 1—ZONING ORDINANCE

SECTION III—DISTRICTS AND USES

301 Districts - For the purpose of this Ordinance, the Town of Londonderry is divided into *eleven*

(11) districts as follows:

Full Name Short Name

Agricultural-Residential AR-I

Multi-family Residential R-III

Commercial-I C-I

Commercial-II C-II

Commercial-III C-III

Commercial - IV C-IV

Industrial-I IND-I

Industrial-II IND-II

Airport AD

Conservation Overlay District CO

Performance Overlay District POD

302 District Boundaries & Zoning Maps

A. The location and boundaries of the Londonderry zoning districts are shown on the “Zoning Map of the Town of Londonderry, New Hampshire” dated June 9, 1994 and signed and certified by the Town Clerk, which is part of this Ordinance. Where any uncertainty exists with respect to the boundary of any District as shown on the Zoning Map, the following rules shall apply:

1. Where a boundary is indicated as a highway, street, railroad, watercourse or Town boundary, it shall be construed to be the centerline thereof or such Town boundary.
2. Where a boundary is indicated as approximately parallel to a highway, street, railroad, watercourse, or Town boundary, it shall be construed to be parallel to the centerline thereof or such Town Boundary.
3. Where a boundary coincides within ten (10) feet or less with a lot line, the boundary shall be construed to be the lot line.
4. If no natural boundary is given, the location of any boundary shall be determined by use of coordinates identified by permanent bounds.
5. If a zoning district boundary line runs through any lot and the lot is of sufficient size and configuration to permit conforming lots in each district, the lot may be subdivided along the zoning district boundary line resulting in conforming lots. The subdivision shall be subject to Planning Board approval in accordance with the Subdivision Regulations.
6. If a zoning district boundary line runs through any lot and the lot is not of sufficient size and configuration to permit conforming lots in each district, the lot cannot be subdivided and the entire lot is deemed to be in the more restricted district. For purposes of this section the order of most restrictive to least restrictive is as follows: AR-I, R-III, C-III, C-I, C-II, **C-IV, POD**, IND-I and IND-II, AD, CO .
7. If a zoning district boundary line runs through a lot and one of the zoning districts within the lot is the Conservation Overlay District, Section VIII applies.

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TOWN OF LONDONDERRY, N.H.

ZONING REGULATIONS

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Section III - (303.A-303.I.2)

Chapter 1—ZONING ORDINANCE

SECTION III—DISTRICTS AND USES (Cont'd)

303 District Regulations - General

A. Any and all uses allowed herein shall also be subject to all other applicable ordinances and regulations of the Town of Londonderry including but not limited to the Floodplain Development Ordinance and to the statutes or regulations of the State of New Hampshire.

B. All commercial and industrial uses, all clustered residential developments and all multiunit

dwelling consisting of more than two dwelling units, regardless of the district in which they are built, shall be subject to Site Plan review by the Londonderry Planning Board prior to the issuance of a building permit. In the event that a special exception is also required, the Board of Adjustment may request input from the Planning Board concerning items typically evaluated during site plan review.

C. The minimum lot sizes, yard and frontage dimensions and maximum heights specified in the district regulations for any particular use are subject to any more restrictive provisions required elsewhere in this Ordinance.

D. Commercial piggeries or mink farms established for the raising, care, and keeping of pigs and minks, as a business, shall not be permitted in any district.

E. Public and private dumps for the disposal of solid waste or any other wastes shall not be permitted in any district.

F. No owner or occupant of land in any district shall permit a collapsed or burned building to remain in such a condition, but within six (6) months shall repair or rebuild such structure or remove the remains and clear the site to ground level. The Londonderry Building Inspector may grant an extension not to exceed six (6) months when conditions warrant.

G. No lot in the Agricultural-Residential (AR-I) District or the Residential-III (R-III) District may be used for the outside storage of more than two unregistered motor vehicles or the outside storage of more than one boat other than a rowboat, canoe or other boat less than twenty (20) feet in length.

H. In instances where a dwelling located in the Agricultural-Residential (AR-I) District has been damaged by fire or other catastrophe, and is being rebuilt or repaired, it shall be permissible to occupy one manufactured housing unit on a lot for a period not exceeding one hundred and twenty (120) days if the Building Inspector deems it advisable. This period may be extended an additional sixty (60) days because of complicating circumstances as determined by the Building Inspector.

I. Minimum and Express Operational Standards. Following are the general conditions with which all excavation work must comply, following issuance of a permit:

1. No excavation shall be permitted below road level within 50' of the right-of-way of any public highway as defined in RSA 229:1 unless excavation is for the purpose of said highway.

2. If the project site abuts a lot zoned Residential, Conservation Overlay District or Commercial III: No excavation shall be permitted within 75' of the boundary of a disapproving abutter, within 1000' of any building which either existed or for which a building permit has been issued at the time the excavation is commenced.

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ZONING REGULATIONS

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Section III - 303.I.3 -303.I.15)

Chapter 1—ZONING ORDINANCE

SECTION III—DISTRICTS AND USES (Cont'd)

303 District Regulations - General (Cont'd)

I. (Cont'd)

3. If the project site abuts a lot zoned Commercial I, II or Industrial: No excavation shall be permitted within 50' of the boundary of a disapproving abutter, within

1000' of any dwelling unit which either existed or for which a building permit has been issued at the time the excavation is commenced, within 150' of any other building which existed or for which a building permit has been issued at the time the excavation is commenced.

4. No excavation shall be permitted within 75' of any great pond, navigable river, or any other standing body of water 10 acres or more in area or within 25' of any other stream, river or brook which normally flows throughout the year, or any naturally occurring standing body of water less than 10 acres, prime wetland as designated in accordance with RSA 482-A:15-I or any other wetland greater than 5 acres in area as defined by the Wetlands Board.

5. Vegetation shall be maintained or provided within the peripheral areas required by paragraphs A, B, C, and D.

6. Drainage shall be maintained so as to prevent the accumulation of free-standing water for prolonged periods. Excavation practices which result in continued siltation or surface water supplies are prohibited.

7. No fuels, lubricants, or other toxic or polluting materials shall be stored on-site unless in compliance with state laws or rules pertaining to such materials.

8. Where temporary slopes will exceed a grade of 1:1, a fence or other suitable barricade shall be erected to warn of danger or limit access to the site.

9. All original topsoil shall be stockpiled on the site and spread on the final slopes. No original topsoil, including loam, may be removed from the site unless written permission therefore is given by the Planning Board.

10. Interim, (i.e. daily), slopes shall not be left steeper than three to one (3:1), unless written permission is obtained from the Planning Board, who may require specific soils data to be obtained at the expense of the owner.

11. If the slopes are higher than 20' they shall be terraced at intervals of 20', terraces to be at least 5' wide.

12. Hours of excavating or removal shall be limited, such that no work shall take place prior to 7:00 a.m., after 7:00 p.m., or on Sundays or holidays.

13. Blasting shall be in accordance with the Town of Londonderry Regulations.

14. All structures and processing equipment shall be setback a minimum of 1000' from a building which either existed or for which a building permit has been issued at the time the excavation is commenced, 250' from all property lines.

15. Maximum height of structures and processing equipment shall be 50' from the ground surface where the equipment is located.

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TOWN OF LONDONDERRY, N.H.

ZONING REGULATIONS

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Section III - (303.I.16 -303.J.1.f)

Chapter 1—ZONING ORDINANCE

SECTION III—DISTRICTS AND USES (Cont'd)

303 District Regulations - General (Cont'd)

I. (Cont'd)

16. The operation shall comply with all applicable federal, state and local air pollution control laws and regulations. Dust shall be controlled so that there are no visible

emissions present at the property boundary

17. Devices to muffle equipment noise, landscape earth berms, screen planting, decorative screen walls or other barriers or devices shall be installed as necessary to achieve compliance with the Town of Londonderry noise control standards. At property lines, noise shall not exceed a maximum level of 75 decibels.

18. Operation and activities, other than blasting, shall cause no inherent or recurring generated vibrations perceptible without instruments at any point along the property line.

J. Minimum and Express Reclamation Standards for excavation. Within twelve months after the expiration date in the permit or the completion of the excavation, whichever occurs first, the owner of the excavated land shall restore the area affected by the excavation to meet each of the following minimum conditions.

1. Except for exposed rock ledge, said area shall be covered with vegetation suitable to prevent erosion and with soils suitable to sustain such vegetation, thus:

a. No area shall be left in such a condition that erosion of the area after completion of the work may result in water pollution by silt or other deleterious substances.

b. The area will be left in such shape and condition that material will not wash, block or obstruct drainage ways.

c. Unless the area is intended to serve as an approved pond for recreation or other purposes, the area shall be left as free draining as practicable.

d. The topography of the land shall be left so that water draining from the site leaves the property at the original, natural drainage points and in the natural proportions of flow.

e. Unless otherwise allowed in writing by the Planning Board, all disturbed areas shall be spread with original topsoil or strippings, if any, to a minimum four inch depth.

f. Unless waived in writing or otherwise stipulated by the Planning Board, areas from which trees have been removed shall be planted with two-yearold plants or plants furnished under a standard nursery order. Seedlings without center buds and seedlings with pruned roots will not be accepted. Seedlings will be set out under horticultural practice at eight-foot spacing in both directions, all as approved by the Planning Board.

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TOWN OF LONDONDERRY, N.H.

ZONING REGULATIONS

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Section III -(303.J.1.g-304.D)

Chapter 1—ZONING ORDINANCE.

SECTION III—DISTRICTS AND USES (Cont'd)

303 District Regulations - General (Cont'd)

J. (Cont'd)

1. Except for... (Cont'd)

g. Areas which low brush or grass has been removed shall be covered with material capable or supporting vegetation and seeded in accordance with

“VEGETATING NEW HAMPSHIRE SAND AND GRAVEL PITS, REVISED

APRIL, 1991.”

h. Unless written permission is obtained from the Planning Board to preserve fire or other access roads (paved or unpaved), such roads shall be obliterated.

2. Earth and vegetative debris resulting from the excavation shall be buried or removed.

3. The elimination of any standing bodies of water created in excavation project as may constitute a hazard to health and safety, unless the Planning Board specifies different restoration.

K. The construction of wireless communications facilities shall be subject to Section III, 304 - Wireless Facilities - Regulation and Performance Criteria.

304 Wireless Facilities - Regulation and Performance Criteria

A. Construction of wireless communications facilities are prohibited in CO (Conservation Overlay), AR-I, and R-III zones and are permitted as a use by right in C-I, C-II, C-III, IND-I and IND-II only if the criteria of Part D of this Section are met. If Part D criteria are not met, then a special exception must be obtained in C-I, C-II, C-III, IND-I and IND-II.

B. It is required by this ordinance that cellular phone antenna be placed on an existing wireless facility tower if it is physically and legally possible.

C. All variance processes are subject to site plan review.

D. Performance Criteria - (See next page)

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TOWN OF LONDONDERRY, N.H.

ZONING REGULATIONS

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Section III -(304.D)

Chapter 1—ZONING ORDINANCE

WIRELESS FACILITY PERFORMANCE CRITERIA

SECTION AR-I,

R-III, CO

C-I, C-II, C-III, IND-I, IND-II

D.1 Cellular Antenna to be affixed to a new (proposed) ground tower

Not allowed Maximum Tower Height: 190 feet

Setbacks: The GREATER distance by application of the following:

- 1. Tower Height +10 feet from street rights-of-way or site boundaries**
- 2. Two (2) times the tower height from abutting residential property lines**
- 3. The tower shall be fenced to a minimum height of eight (8) feet with two (2) strands of barbed wire**
- 4. Site Plan Review required**

D.2 Cellular antenna to be affixed to an existing building without a roof tower

Not allowed 1. Antenna may be placed on the facade or roof of conforming building or structures without regard to height or setback of the building.

2. Antenna support structures will be considered to be roof towers if the height of the structure exceeds ten (10) feet above permitted height of building.

D3. Cellular antenna to be affixed to a new (proposed) roof tower.

Not allowed Roof Towers may be placed on the roof of a conforming building using either of the following to determine tower height and setback:

- 1. Tower height above the roof may be as high as the setback distance to**

the nearest roof edge.

2. The heights allowable for a ground tower may be used for a roof tower if the required setbacks for a ground tower are met.

D.4 Cellular antenna to be added to an existing approved or permitted tower.

Not allowed Allowed if following conditions are met:

1. The tower height is not increased.

2. No ancillary features are added to the tower other than antenna, required safety hardware, and ancillary equipment buildings.

3. All conditions of the previous tower approval have been satisfied.

D.5 Existing nonconforming tower N/A Subject to zoning requirements concerning Nonconforming Structures

D.6 Ancillary equipment building(s) Not allowed 1. Subject to all requirements of appropriate zone (ie: bulk, setback, etc.

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TOWN OF LONDONDERRY, N.H.

ZONING REGULATIONS

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Section III (304.E - 304.H)

Chapter 1—ZONING ORDINANCE

SECTION III—DISTRICTS AND USES (Cont'd)

304 Wireless Facilities - Regulation and Performance Criteria (Cont'd)

E. New ground towers shall be subject to site plan review. The assessment and review of each application for a wireless facility's compliance with the Performance Criteria of Part D shall be the

responsibility of the Building Inspector, Planning Director and Town Engineer. For antennas mounted on existing structures, the above-mentioned Town review team shall ascertain that the proposal meets all applicable Town requirements as follows:

A. **Site and building plans shall be submitted and approved as specified herein.**

B. A report prepared by a qualified professional engineer registered in the State of New Hampshire indicating the existing structures' suitability to accept the antenna, and the proposed method of affixing the antenna to the structure shall be limited along with the complete details of all fixtures and couplings, and the precise point of attachment shall be indicated.

F. Any proposed wireless communication facility shall be designed, structurally, electrically, and in all

respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over one hundred (100) feet in height or for at least one additional user if the tower is over sixty (60) feet in height. Wireless communication facilities shall be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

G. Temporary facilities must meet the following requirements:

1. Use of a temporary facility in excess of one day is allowed only if the owner has received a temporary use permit from the Londonderry Building Department

2. Temporary wireless facilities are permitted for use not to exceed a total of thirty (30) days during construction of permanent facilities or a total of ten (10) days during a special event.

3. The maximum permitted height of a temporary wireless facility is fifty (50) feet from grade.

4. Temporary facilities are subject to all applicable portions of this Ordinance.

H. Non-Commercial Wireless Facility (Amateur Radio) Standards: Towers that solely support amateur radio equipment (“Ham Radio Towers”) and conform to all applicable performance criteria as set forth in Section D, shall be permitted in the rear yard of residentially-zoned parcels. Ham Radio Towers shall be limited to the minimum height that is technically necessary to engage successfully in amateur radio communications.

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TOWN OF LONDONDERRY, N.H.

ZONING REGULATIONS

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Section III (304.I - 304.K.1.b)

Chapter 1—ZONING ORDINANCE

SECTION III—DISTRICTS AND USES (Cont’d)

304 Wireless Facilities - Regulation and Performance Criteria (Cont’d)

I. Removal of Unused Towers or Portions of Towers: Unused towers or portions of towers shall be

dismantled and removed as follows:

1. Any approval of a new ground tower and associated facilities shall be subject to a condition that the tower and facilities shall be removed within six (6) months of the cessation of operations unless a time extension is approved in writing by the Planning Board. All abandoned or unused towers and associated facilities at the site, unless a time extension is approved in writing by the Planning Board.
2. At the time of application, the applicant, if not the landowner, shall submit a copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associated facilities upon cessation of operations.
3. In the event that a tower is not removed within six (6) months of the cessation of operations at a site, the tower and associated facilities may be removed by the Town and the costs of removal assessed against the property.
4. Unused portions of towers above a manufactured connection shall be removed within six (6) months of the time of antenna relocation. Any replacement of portions of a tower previously removed shall be subject to the approval and permit requirements of this Section. (Section 304 - Wireless Facilities).
5. As a condition of approval, the applicant shall provide security in a form and amount acceptable to the Planning Board to ensure removal of the unused tower. The security shall be maintained until the tower is removed.
6. The owner of a wireless facility, with written authorization from the property owner, shall file annually a declaration with the Planning Department as to the continuing operation of every facility installed subject to these regulations. Failure to do so may be construed to mean that the facility is no longer in use and considered abandoned, thus subject to the provisions of Sections I.1 through I.5 above.

J. Signs are prohibited on Wireless Communications Facilities

K. Special Exception for Wireless Communications Facilities - Wireless communications facilities are

prohibited in Residential zones (AR-I, CO and R-III). Special exceptions shall be granted only in

Commercial (C) and Commercial-I (C-I) zoning districts upon a determination by the Zoning Board of Adjustment that the wireless communications equipment planned for the proposed site cannot be accommodated:

1. On an existing or approved antenna support structure or on any alternative tower structure for which an application is pending within a radius of:
 - a. One mile for structures of one hundred twenty (120) feet or greater in height;
 - b. One half mile for structures under one hundred twenty (120) in height, or

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TOWN OF LONDONDERRY, N.H.

ZONING REGULATIONS

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Section III (304.K.1.c - 304.K.2)

Chapter 1—ZONING ORDINANCE

SECTION III—DISTRICTS AND USES (Cont'd)

304 Wireless Facilities - Regulation and Performance Criteria (Cont'd)

K. Special Exception for Wireless Communications Facilities (Cont'd)

1. On an existing or approved antenna support structure....(Cont'd)
- c. One quarter mile for structures under eighty (80) feet in height for one of the following reasons:
 1. The planned equipment would exceed the structural capacity of the existing, approved or pending antenna support structure, as documented by a qualified professional engineer registered in the State of New Hampshire, and the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost (defined here in as three quarters (3/4) of the cost of the tower;
 2. Planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the antenna support structure as documented by a qualified professional engineer registered in the State of new Hampshire and the interference cannot be prevented at a reasonable cost.
 3. Existing or approved antenna support structure within the required radius cannot accommodate the planned equipment at the necessary height as documented by a qualified professional engineer registered in the State of New Hampshire.
2. The burden of proof is upon the applicant to demonstrate that all reasonable alternatives to the erection of a new structure have been fully explored.

~~End of Section~~

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TOWN OF LONDONDERRY, N.H.

ZONING REGULATIONS

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APPENDIX "A"

Roadway Classifications

I. DEFINITIONS:

Arterial - A road intended to carry local and regional traffic to, from and between limited access highways

as well as to, from and between the major centers of employment, service, and retailing in commercial and

industrial districts. These roads are designed to carry large volumes of traffic to and from collector streets.

The emphasis is on mobility, not access to adjoining land uses. Arterial roads are characterized by high

volumes of traffic and two to four travel lanes.

Collector - A road intended to carry local vehicular traffic within commercial and industrial districts as

well as to, from, and through residential areas to reach arterial streets and the commercial and industrial

districts. Collectors provide access to adjoining land uses, as well as conduct traffic from local streets to

arterial streets and interstate highways. Collector roads are characterized by high volumes of traffic at peak

hours and two (2) travel lanes, often with additional turning lanes at intersections.

II. ROAD CLASSIFICATIONS

A. Arterials:

Interstate Rte. 93

Mammoth Road (NH Rte.128 - Portion)

Nashua Road (NH Rte. 102)

Rockingham Road (NH Rte. 28)

B. Collectors:

Adams Road Hardy Road Pillsbury Road

Auburn Road Harvey Road Shasta Drive

Elwood Road High Range Road Stonehenge Road

Gilcreast Road Litchfield Road South Road

Grenier Field Road Old Derry Road West Road

Griffin Road Perkins Road Willey Hill Rd