

ORDINANCE #2004-02

An Ordinance Relative to the
***Amend Municipal Code - Title III- Land Use Codes,
Chapter I - Zoning Ordinance,
Section VIII - Performance Overlay District***

First Reading: 01/26/04

Second Reading/Public Hearing: 02/09/04

Adopted: 00/00/00

WHEREAS the Londonderry Planning Board voted at its January 14, 2004 meeting to accept the recommendations made by the Planning Staff to amend Section VIII, Performance Overlay District, adding Section VIII-A - NH Route 28 Corridor; 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 Municipal Code, Title III - Land Use Codes, Chapter I - Zoning Ordinance, Section VIII - Performance Overlay, is hereby amended as attached.

Tom Dolan - Chairman
Town Council

(TOWN SEAL)

Marguerite Seymour - Town Clerk/Tax Collector

A TRUE COPY ATTEST:00/00/00

ZONING REGULATIONS
REVISED 2004

Chapter 1—ZONING ORDINANCE

Section VIII (801 - 802.B.6)

SECTION VIII — PERFORMANCE OVERLAY DISTRICT

801 AUTHORITY

The section is enacted in pursuant to RSA 674:21, Innovative Land Use Controls, which provides the Statutory authority for the Town of Londonderry to provide Intensity and Use Incentives, Impact Zoning, Performance Standards, and the ability for the Planning Board to grant Conditional Use Permits. The Planning Board shall be solely responsible for the interpretation and administration of this ordinance, including the granting of all conditional use permits relative thereto. Any decision made by the Planning Board under this Performance Overlay District ordinance may be appealed directly to Superior Court in the same manner provided by RSA 677:15.

802 PURPOSE AND INTENT

A. Because the Town of Londonderry has experienced an increase in development along the Town's main traffic corridors and anticipates such growth will likely continue, (including the widening of Interstate 93 and the development of the Nashua-Hudson Circumferential Highway), because said development will generate growth related impacts (increased traffic congestion, infrastructure requirements, demand for public services, reduced aesthetics, etc.) utilizing the corridors, because traditional zoning techniques may not produce the type of development envisioned by the community through the Master Plan, and in order to implement the following objectives of the Town's most recently adopted Master Plan:

1. **Guide the form of business development to occur in keeping with community objectives for compatible, appropriate development;**
2. **Tune regulatory systems to encourage businesses or other high trip-generating uses to more efficiently use the circulation system;**
3. **Regulating development to ensure that it can be supported by planned infrastructure, taking into consideration that required infrastructure must be appropriate to the context and must be supportive of environmental and community character concerns; and**
4. **Include consideration of impact upon natural and cultural resources in review of development proposals**

The Town hereby adopts this overlay district to guide the development of land through the use of performance standards, incentives for quality development, and impact assessments to ensure the desired development pattern along the major traffic corridors of Londonderry.

B. **The purpose of the *Route 102* Performance Overlay District is:**

1. **To minimize adverse traffic impacts on the corridors and surrounding local roadways;**
2. **To preserve the rural character of the district by providing for development that preserves appropriate open space and builds upon the landscaping design, and visual character standards of the Town's Site Plan Regulations;**
3. **To minimize negative impacts to the environment such as water quality, air quality, prevention of noise pollution, light pollution, and to other important natural and cultural resources.**
4. **To promote and attract high quality, diverse, and sustainable economic development to the district by utilizing performance standards and flexibility in the District.**
5. **To protect the remaining aquifers within the Town of Londonderry.**
6. **To provide an appropriate mix of uses for the areas abutting the natural complex formed by areas such as the Musquash Conservation Area, Kendall Pond area, Scobie Pond area, the Litchfield State Forest, etc.**

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ZONING REGULATIONS
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Chapter 1—ZONING ORDINANCE

Section VIII (803 - 805.B)

SECTION VIII — PERFORMANCE OVERLAY DISTRICT

803 DISTRICT DEFINED

- A. The Performance Overlay District shall be described as including the lots identified on the “Performance Overlay Zone” Map and specifically as follows:

On Tax Map 2: Lots 7, 8, 11, 12, 13, 16, 17, 19, 20, 21, 22, 22B, 23, 25, 26, 27, 28, 28A, 28-10, 28-11, 29B-5, 32, 34, 34-1, 34A, 35.

On Tax Map 3: Lots 130, 131, 131-1, 131-2, 132, 132A, 132B, 135, 136, 137, 148, 149, 150-1C, 153, 161

On Tax Map 6: Lots 30, 31, 32, 33A, 34, 35-1, 35-2, 35-10, 35-17, 35-19, 36, 41, 42-1, 49, 52, 53, 54, 56, 56-1, 57, 59-1, 64, 65-1, 65A, 84.

On Tax Map 7: Lots 132-1, 132-2, 132-3, 132-4, 132-5, 132-6, 132-7, 132-8, 132-9, 132-10, 132-11, 132-12, 132-13, 132-14, 132-15, 132-16, 132-17, 132-18, 132-19, 132-20

- B. The term “overlay district” means a zoning district superimposed on one or more established zoning districts to impose supplemental requirements, restrictions, and performance standards on uses in the district.

804 CONFLICTS WITH UNDERLYING ZONING STANDARDS

Because of the unique nature of the performance based incentives and regulations in this Overlay District, the standards and requirements of this Section shall, unless otherwise stated in this Section, apply to all lots in the Overlay District, regardless of the underlying zoning district, except:

- A. *Those zoned C-III at the time of passage of the POD by Town Council; and*
- B. *Those lots with an underlying zone of AR-1 AND that have received a conditional use permit for uses permitted in the AR-1 Zone*
1. Such lots shall be subject to the standards of the AR-1 District, (Section VI)
 2. A buffer of fifty (50) feet shall be provided for any lot in a residential subdivision that abuts land zoned for non-residential uses.

805 USES PERMITTED

- A. The Performance Overlay District allows for uses that are consistent with the purposes and intent of the overlay district. Because not all uses permitted in the underlying zones are consistent with the Performance Overlay, the uses permitted in the Overlay district are limited to those listed in Section 805.C, below. The uses permitted in the underlying zoning districts are not permitted, unless listed in 805.C or considered a use permitted by Conditional Use Permit, see Section 806.
- B. All uses permitted in the Performance Overlay District are subject to site plan review by the Planning Board. Prior to Planning Board approval of a proposal, the applicant must demonstrate, through the Impact Assessment requirements of Section 808, that the proposal will meet all of the appropriate performance standards of Section 807, the Site Plan Regulations, the Subdivision Regulations *as applicable*, and shall be consistent with the purpose and intent of the Overlay District in Section 802.

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Section VIII (805.C - 806.D.3)

**SECTION VIII — PERFORMANCE OVERLAY DISTRICT
805 USES PERMITTED (cont'd)**

- C. The following uses are permitted within the Performance Overlay District:
1. Business Center Development: A tract of land, buildings or structures planned as a whole and intended to include those uses allowed in this overlay district whether built at one time as a unit or in two or more construction stages;
 2. Professional offices including, but not limited to, dentists, doctors, lawyers, architects, real estate, and such uses normally considered as general offices;
 3. Restaurants, cafes, and similar establishments, with no drive-in windows;
 4. Retail stores or shops including clothing, appliance, hardware and department stores, automotive accessory, drug and variety stores, grocery stores and supermarkets;
 5. Computer services
 6. Religious Institutions/Places of worship and related facilities;
 7. **Educational Institutions;**
 8. **Recreation areas (commercial and non-commercial);**
 9. **Elderly Housing & Assisted Living Facilities, as outlined in Section XIV**

806 CONDITIONAL USE PERMIT

- A. All uses permitted by Conditional Use Permit in the Performance Overlay District are subject to site plan review by the Planning Board. Prior to Planning Board approval of a Conditional Use Permit, the applicant must demonstrate, through the Impact Assessment requirements of Section 808, that the proposal will meet all of the appropriate performance standards of Section 807, the Site Plan Regulations, the Subdivision Regulations, and shall be consistent with the purpose and intent of the *Route 102 Performance Overlay District* in Section 802.
- B. Prior to Planning Board action on any site plan or subdivision for a use requiring a Conditional Use Permit, the Board must have already granted the Conditional Use Permit. The Conditional Use Permit may be sought either separately or concurrently with Site Plan/Subdivision approval.
- C. **Uses Permitted by Conditional Use Permit**
1. Any use permitted in the underlying zoning district, which is not a permitted use in the Performance Overlay District;
 2. Warehouses and storage of non-explosive materials;
 3. Daycare facilities;
- D. **Administration of Conditional Use Permits**
As provided for in RSA 674:21, Innovative Land Use Control, this Section of the zoning ordinance shall provide for the granting of conditional use permits, by the Planning Board, as follows:
1. The Planning Board shall then vote either to approve a conditional use permit as presented, approve it with conditions, or deny it.
 2. Prior to construction commencing on any use that is granted a conditional use permit, the applicant shall be required to submit a financial surety in accordance with Section 5.01 of the Subdivision Regulations or Section 6.01 of the Site Plan Regulations, whichever is applicable.
 3. The applicant may also be assessed reasonable fees to cover the cost of other special investigative studies and for the review of documents required by particular applications, reviews by the Town's legal counsel, and any third party consultant as may be required by the Planning Board per section 2.01d of the Site Plan Regulations.

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Section VIII (806.E - 807.A.1)

**SECTION VIII — PERFORMANCE OVERLAY DISTRICT
806 CONDITIONAL USE PERMITS (cont'd)**

- E. The following criteria must be satisfied in order for the Planning Board to grant a conditional use permit in the Performance Overlay District. The applicant shall demonstrate that:**
- 4. All performance criteria outlined in Section 807, as applicable to the application have been met;**
 - 5. The proposed use is consistent with the purpose and intent of the Performance Overlay District, Section 802,**
 - 6. Granting of the application would meet some public need or convenience;**
 - 7. Granting of the application is in the public interest;**
 - 8. The property in question is reasonably suited for the use requested, and the design of the site represents to the extent practicable preservation of natural resources, open space, and does not create a hazard to surface or underground water resources.**

807 PERFORMANCE STANDARDS

A. Dimensional Performance Standards

- 1. Table of Dimensional Performance Standards: In order to accomplish the goals of this ordinance, as well as fulfill the goals of the Master Plan, development within the Performance Overlay District is subject to the dimensional standards listed in Table 1, below.**

TABLE 1

Property located on:	Min. Lot Size	Min. Lot Frontage	Max. Structure Height	Min. Front Setback (7)	Min Side Setback	Min. Rear Setback	Max. Impervious Cover
Arterial Road (as defined by appendix A), with public water and sewer	3 Acres	300 feet (1)(2)	45 feet	4.5 times the building height (4)(5)	equal to the building height or 20 feet (whichever is greater)	equal to the building height or 20 feet (whichever is greater)	55% (6)
Arterial Road without public water and without sewer	3 Acres (3)	300 feet (1)(2)	45 feet	4.5 times the building height (4)(5)	equal to the building height or 20 feet (whichever is greater)	equal to the building height or 20 feet (whichever is greater)	55% (6)
Non-Arterial Roads OR Arterial Road when "Shared access" is used, and with public water and sewer	1 Acre	100 feet (1)(2)	45 feet	4 times the building height (4)(5)	equal to the building height or 20 feet (whichever is greater)	equal to the building height or 20 feet (whichever is greater)	66% (6)
Non-Arterial Roads OR Arterial Road when "Shared access" is used, and without public water and without sewer	1.5 Acres (3)	150 feet (1)(2)	45 feet	4 times the building height (4)(5)	equal to the building height or 20 feet (whichever is greater)	equal to the building height or 20 feet (whichever is greater)	66% (6)

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Section VIII (807.A.1 - 807.A.2)

SECTION VIII — PERFORMANCE OVERLAY DISTRICT

807 PERFORMANCE STANDARDS (Cont'd)

A. Dimensional Performance Standards (Cont'd)

Table 1 Footnotes:

(1) Lots with Frontage along both an arterial road and a local road shall be accessed from the local road whenever possible. The Planning Board shall have the authority to allow access on an arterial road in such situations where access from the local road is deemed inappropriate or not feasible, *and the NH DOT has issued appropriate permits.*

(2) Minimum frontage requirement must be satisfied from the road providing access to the lot.

(3) Subject to NHDES lot sizing criteria if DES minimum lot size is greater than 3 acres/1.5 acres.

(4) May be reduced to 2 times the building height if all parking is located to the side or rear of the principal structure.

(5) At no time shall the minimum front setback be less than 50 feet along an arterial road and 30 feet along a local Road.

(6) May be increased by an amount equal to the area of easement dedicated for future widening of the arterial road (See section 807.A.3 on Incentive Bonuses)

(7) On lots with frontage on both an arterial and local road (double frontage), the front setback shall be measured from the property line adjacent to the arterial road.

(8) No structure shall exceed three (3) stories of usable floor space

(9) As an incentive for use of steep roofs or other architectural elements (clock towers, cupolas, etc.) the Planning Board may, with recommendation from the heritage Commission, allow for a height bonus not to exceed sixty (60) feet from grade. This additional height beyond the maximum of forty five (45) feet is not used in the setback calculations.

2. Commercial Building Size Standards

a. Intent: Because the intent of the Performance Overlay District is to preserve rural character by providing for development that preserves appropriate open space and builds upon the landscaping design, and visual character standards of the Town's Site Plan Regulations, large scale commercial development is not consistent with the goal of the district. In order to accomplish the goals of the district, the following performance standards are applied to commercial buildings.

b. Multiple buildings are permitted on a single lot within the POD.

c. The size of any individual commercial building shall not exceed a building footprint of 12,500 square feet, but may be granted an incentive bonus to a building footprint not to exceed 25,000 square feet if the all of the following criteria are met:

1. The proposed parking for the commercial use will be limited to the rear and side of the structure.
2. The parking area for the building is interconnected with an adjoining lot, or provisions are made to allow for connection of parking lots in the future.
3. The access for the building is shared with 1 or more other lots for access management purposes.

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Section VIII (807.A.3 - 807.B.4.a)

SECTION VIII — PERFORMANCE OVERLAY DISTRICT

807 PERFORMANCE STANDARDS (Cont'd)

A. Dimensional Performance Standards (Cont'd)

4. Dimensional Incentive Bonus Standards

- a. These incentive bonus standards are designed to reward projects that choose to voluntarily develop their properties in a way that is most compatible with the stated goals and objectives of this District and the Master Plan.
- b. Reduction in Minimum Lot Area and Frontage: As an incentive to encourage the concept of access management for traffic corridors through access on local roads and shared access drives, the minimum lot area and frontage requirements shall be decreased as noted in Table 1 where shared access or local road access is provided for a lot.
- c. Widening Easement Deeds: Those lots that voluntarily agree to provide easement deeds over the portion of their land within 25 feet of the state right-of-way, thereby reserving this easement area for future widening of the corridor or similar improvements within the corridor, may be compensated for this action by being allowed an impervious surface bonus, to develop their property to an extent greater than otherwise permitted in the Performance Overlay District. The amount of extra impervious coverage shall be equal to the actual computed area of the easement area provided for future improvements. *The provision of a widening easement may also qualify for credits to impact fees as outlined in Section XIII.*
- d. Reduction in Minimum Front Setback: As an incentive to encourage the protection of aesthetics in the Performance Overlay District, the minimum lot area and frontage requirements shall be decreased as noted in Footnote 4 of Table 1 where parking is limited to the rear and/or side of the building.

B. Landscape Performance Standards

1. **The landscape performance standards of the Performance Overlay District are intended to supplement the requirements of the Site Plan Regulations, outlining areas where landscaping are required in the District to promote the aesthetically pleasing type of development desired by the community.**
2. **Specifics about landscaping materials, caliper sizes, and specifics of the design details shall be as defined by Section 3.09 and 3.11.g of the Site Plan Regulations. In the event that requirements of this District and the Site Plan Regulations conflict, the more restrictive of the two documents shall govern.**
3. **None of the landscape requirements contained in this ordinance or the Site Plan Regulations shall be construed so as to require plantings where safe sight distance at driveways or along public streets would be inhibited. The Planning Board may adjust landscape requirements of this District when deemed necessary for reasons of public safety.**
4. **Required Landscaping Areas**
 - a. **Open Space:** All areas disturbed by construction shall be covered with a minimum thickness of 4 inches of suitable topsoil and be subsequently planted with grass seed, sod, or other vegetative cover.

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Section VIII (807.B.4.b - 807.B.4.d.2)

SECTION VIII — PERFORMANCE OVERLAY DISTRICT

807 PERFORMANCE STANDARDS (Cont'd)

B. Landscaped Performance Standards (Cont'd)

4. Required Landscaping Areas (Cont'd)

b. Street Tree Area

1. The street tree area shall be a 15 foot wide strip running parallel with the lot frontage along any public right of way and shall be continuous along the entire length of said right of way, except for those areas reserved for approved curb cuts. (On lots where there is a widening easement provided, the street tree area shall begin at the rear of the easement)
2. The street tree area shall be planted with a minimum of 1 native shade tree (see Site Plan Regulations for recommended native trees) for every 50 feet of right of way frontage. The size of trees to be planted in this area shall be a minimum of 2 ½ inch caliper at time of planting. Branching height of street trees shall not be less than 7 feet above grade when planted. Street trees must not be closer than 25 feet apart at time of planting.
3. Incentive bonus: Every healthy native tree with a caliper of 3 inches or greater, which is preserved in the street tree area may be substituted for 1 required new street tree planting.

c. Front Buffer Area

1. The front buffer area shall be a strip of variable width (minimum 20 feet wide) between the street tree area and the closest point of a building or impervious surface facing a public right of way. (On lots where there is a widening easement provided, the street tree area may encroach and overlap the front buffer area)
2. The front buffer area shall be planted with a minimum of 1 deciduous or evergreen tree for every 30 feet of horizontal building facing a public right of way. Trees planted in this area shall have a height equal to ½ the maximum proposed height of a building (but not less than 12 feet from grade or greater than 30 feet from grade) at time of planting.
3. Incentive bonus: Every healthy native tree with a caliper of 3 inches or greater, which is preserved in the front buffer area may be substituted for 1 required new front buffer tree planting. Every healthy native tree with a caliper of 4 inches or greater, which is preserved in the front buffer area may be substituted for 2 required new front buffer tree plantings.

d. Side and Rear Buffer Areas

1. Required side and rear buffer areas shall begin at the inner limits of the front buffer area and run parallel to the side and rear property lines. The minimum width of these side and rear buffers shall equal to ½ the proposed maximum building height, but not less than 10 feet wide. In the event the property abuts a parcel zoned AR-I, the buffer shall be no less than 75 feet wide.
2. The side and rear buffers shall be constructed to provide a dense 4 season visual screen in accordance with Section 3.09.e of the Site Plan Regulations.

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Section VIII (807.B.2.e - 807.C.2.c.2)

SECTION VIII — PERFORMANCE OVERLAY DISTRICT

807 PERFORMANCE STANDARDS (Cont'd)

- B. Landscape Performance Standards (Cont'd)
 - 2. Required Landscaping Areas (Cont'd)
 - e. Perimeter Parking Lot Landscaping and Interior Parking Lot Landscaping shall be in accordance with Section 3.11.g of the Site Plan Regulations.
 - f. Signage Landscaping
 - 1. The signage landscaping area shall be a minimum 4 foot wide area surrounding each monument or pedestal sign base.
 - 2. All sign bases shall be planted with shrubs and groundcover with a minimum height of 18 inches at time of planting.
 - 3. Incentive bonus: Healthy vegetation which is preserved in the location of signage landscape area may be substituted for the required plantings.
 - g. Other Screening: Screening of storage areas, dumpster enclosures, loading docks, receiving areas, above ground utility fixtures, and any other items deemed necessary by the Planning Board, shall be in accordance with Section 3.09.e of the Site Plan Regulations.
- C. **Off-Street Parking**
 - 1. **Intent**
 - a. In order to provide safe and adequate parking facilities, yet maintain a high quality aesthetic quality of development within the Performance Overlay District, performance standards for parking have been developed.
 - b. The goals related to these performance standards are:
 - 1. To ensure that appropriate parking areas are provided for future development within the Overlay District;
 - 2. To promote the use of interconnected parking between adjacent businesses as a means of access management along the corridor;
 - 3. To encourage the provision of interior landscaping within parking lots as a means of mitigating summer heat, snow storage areas, and improve the aesthetics of parking areas.
 - 2. **General Performance Standards for Off-Street Parking.**
 - a. The minimum number of parking spaces, dimensional requirements for parking stalls and aisle widths shall be determined by the requirements of the underlying zoning district (either 603.F or 703.G), except for parking lot setbacks (also called green area setbacks as defined in Sections 603.H and 703.I) which are governed by the performance standards for Landscaping, as outlined in Section 807.B.
 - b. Sales of automobiles or other items which may be for sale is not permitted within any required parking spaces or their interconnecting drives and/or aisles.
 - c. Coordinated or Joint Parking Design: When feasible, abutting parcels shall be so designed as to provide for mutually coordinated or joint parking, access and circulation systems, and shall include stub-outs and other design features as necessary to make it visually obvious that the abutting properties may be tied in to create a unified system.
 - 1. Development Prior to Abutting Use. In the event that the site is developed prior to an abutting property, it shall be designed to ensure that its parking, access and circulation may be easily tied in to create a coordinated parking design at a later date.
 - 2. Existing Abutting Uses. In the event that the site abuts an existing developed property, it shall be so designed as to tie into the abutting parking, access and circulation to create a coordinated system unless the Planning Board finds that this would be impractical.

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Section VIII (807.C.3 - 807.D.3.e.2)

SECTION VIII — PERFORMANCE OVERLAY DISTRICT

807 PERFORMANCE STANDARDS (Cont'd)

C. Off Street Parking (Cont'd)

- 3. In parking lots where shared access and/or interconnected parking lots occur, the side and rear landscape area requirements of 807.B can be omitted.**

D. Signage

1 General

- a. The general standards of Section XXIII, Parts 2302, 2303.A, 2303.B, 2303.F, 2303.G, 2304, and 2305 shall apply to signs within the Performance Overlay District.
- b. Sign Illumination
 1. Direct and indirect lighting of signs is permitted, provided it meets the criteria from Section 3.13 of the Site Plan Regulations.
 2. Internally illuminated signs shall be opaque and only the sign copy shall appear to be illuminated.
 3. Externally illuminated signs, and signs that are consistent with Section 3.12.g of the Site Plan Regulations are strongly encouraged.
- c. The copy (lettering) area, as it relates to the overall sign. Shall be in proportion. Copy (lettering) shall not appear to occupy more than 75% of the total sign area.

2. Building Mounted Signs

1. Wall signs shall cover no more than 20% of the total square footage of the facades to which they are affixed.
2. Wall signs may be as large as 1 sq. ft. per 3 linear ft. of building frontage or a maximum of 30 square feet, whichever is less.
3. Wall signs shall not project above the roofline or eaveline of any building. In multi-story buildings, wall signs shall not project above the first floor line, or 12 feet from grade, whichever is less.
4. One wall sign is permitted per tenant in a multi-tenant structure, however the total sign square footage on any wall or facade shall not exceed 60 square feet.
5. Signs on adjacent storefronts within the same building shall be coordinated in height and proportion, and are encouraged to use the same signing format.
6. Signs shall not obscure important architectural details or features such as windows, transoms, panels, sills, mouldings, and cornices.

3. Freestanding Signs

- a. There shall be no more than 1 freestanding sign (double sided) permitted for any lot within the Performance Overlay District.
- b. Freestanding signs within the performance overlay district shall not exceed 10 feet in height from grade to the top of the sign.
- c. The maximum sign area for freestanding signs shall be determined by the following:
 4. For 1 or 2 tenant structures: 30 square feet.
 5. For 3 or more tenant structures: 50 square feet.
- d. Freestanding signs shall be set back a minimum of 10 feet from the front property line. On properties where a widening easement has been provided, the sign shall be set back 10 feet from the inner edge of the easement.
- e. Freestanding signs within the Performance Overlay District shall be one of the following types:
 1. Monument Sign: a sign that is a separate structure supported from grade to the bottom of the sign with a base that is larger than the sign.
 2. Directory sign: a sign that is a separate structure supported from the sides, used to identify the name of the development as a whole and listing the major tenants.

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SECTION VIII — PERFORMANCE OVERLAY DISTRICT

807 PERFORMANCE STANDARDS (Cont'd)

D. Signage (Cont'd)10.

3. Freestanding Signs (Cont'd)

- f. Freestanding signs shall be landscaped in accordance with the standards provided in Section 807.B.
- g. Freestanding signs shall be placed perpendicular to approaching vehicular traffic.

E. Lighting

- 1. **Lighting levels for properties in the Performance Overlay District shall be subject to the requirements of Section 3.13 of the Site Plan Regulations.**
- 2. **The height of any freestanding outdoor lighting fixture shall not exceed 20 feet above grade.**

F. Environmental Performance Standards

1. General

- a. Environmental Performance standards specific to the Performance Overlay District have been developed to protect the long-term environmental quality and vitality of gateways to the Town of Londonderry and of sensitive natural resources in the vicinity of the corridors
 - b. In addition to the performance standards of this section, development within the Performance Overlay District shall be subject to all applicable local, state, and federal ordinances, regulations and laws. The standards listed in this section shall not be construed to imply relief from requirements of state or federal law.
2. **General Performance Standards:** All property within the Performance Overlay District shall be subject to the standards outlined in Section 603.K for vibration, noise, air pollution, odors, glare & heat, harmful interference, and sewage/waste disposal performance standards.
3. **Wetland/Groundwater Protection Performance Standards**
- a. All provisions of the Conservation Overlay Zone shall apply to wetlands and perennial streams within the Performance Overlay District.
 - b. Sufficient open space shall be provided for the recharge of groundwater. Where infiltration is required in drainage design, all runoff shall be pre-treated using treatment swales and detention basins meeting the NHDES Best Management Practices and the Londonderry Site Plan Regulations. Infiltration facilities shall be designed to perform under all season conditions. Applicants are encouraged to meet with the Department of Public Works and Engineering prior to developing a drainage design to determine if infiltration is appropriate for a proposed site plan.
4. **Performance Standards for Development of Steep Slopes**
- a. For purposes of this section, steep slope areas shall be defined as naturally existing, contiguous areas of land of greater than ½ acre or more that have an average cross slope gradient greater than 33% or 3H:1V.

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Section VIII (807.F.4.b - 808.C.1.a)

SECTION VIII — PERFORMANCE OVERLAY DISTRICT

807 PERFORMANCE STANDARDS (Cont'd)

F. Environmental Performance Standards (Cont'd)

4. Performance Standards for Development of Steep Slopes (Cont'd)

- b. In order to guard against hazards associated with development of steep slopes, construction within these areas shall be limited to those activities necessary for construction in the use/development of land outside of a steep slope area and shall be subject to the following standards:
 - 1. No portion of a steep slope area shall be used for the construction of leach fields or trenches which are part of subsurface sewage disposal systems.
 - 2. Not more than 25% of a steep slope area shall be cleared of healthy existing vegetation and shall be re-vegetated upon completion of the construction allowed in paragraph b, above.
 - 3. Portions of steep slope areas affected by construction activity shall be given special attention with regard to erosion control.
 - 4. No portion of a steep slope area shall be subject to the discharge of any stormwater management system.

808 IMPACT ASSESSMENT REQUIREMENTS

- A. The purpose of impact assessments within the Performance Overlay District is to provide the Planning Board with sufficient information to conduct a detailed review of uses that have the potential for significant impact within the overlay, and the Town as a whole. The impact review process is intended to promote and protect the natural resources and aesthetic qualities of the Town and to prevent or mitigate any adverse impact to the Town services, traffic patterns, abutting properties, the economy of the Town, the character of the Town, or the public health, safety, and welfare of Town residents.

B. Applicability and Procedure

- 1. This section is applicable to all residential and non-residential site development within the Performance Overlay District. All development proposals within the Overlay District shall submit impact assessment reports in accordance with this Section, and all other applicable local, state, and federal regulations. Single family residential or duplex construction (on a single lot not involving subdivision) is exempt from the requirements of an impact assessment report.
- 2. Three (3) copies of the impact assessment report shall be submitted along with all other forms, plans and information required for applications under the Site Plan and Subdivision Regulations.
- 3. The impact statement shall be prepared by an interdisciplinary team of professionals qualified to evaluate all facets of the proposed project which may include but is not limited to engineers, architects, landscape architects, economic analysts, environmental scientists, and planners.
- 4. All impact statements shall be reviewed by the Town, and any third party review costs shall be included in the review escrow as outlined in the site plan and subdivision regulations.
- 5. The Planning Board shall have the authority to waive or modify all or part of the requirements of the Impact Assessment Report (with the exception of Section 808.C.2.e) for site development after reviewing the nature, scope, and size of a proposed development.

C. Impact Assessment Report

1. The impact statement shall include the following elements:

- a. A detailed description of the proposed project and its design features, including existing conditions on the site and in the vicinity of the project.

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SECTION VIII — PERFORMANCE OVERLAY DISTRICT

808 IMPACT ASSESSMENT REQUIREMENTS(Cont'd)

C. Impact Assessment Report (Cont'd)

1. The impact statement shall include the following elements: (cont'd)
 - b. Identification and assessment of the impacts of proposed project, including positive, negative, and indirect impacts. Proposed measures to prevent or mitigate adverse impacts and/or maximize positive impact including design modifications and provision of infrastructure improvements sufficient to support the project. Any adverse impacts that cannot be mitigated shall be identified. Mitigation measures to be implemented by the applicant shall be identified.
 - c. An evaluation of how the project will meet the standards required in this ordinance
2. The Impact Statement shall assess the following areas of potential impact:
 - a. Traffic Impact: Traffic Impacts shall be addressed according to the procedure outlined in Section 3.14 of the Site Plan Regulations.
 - b. Solid Waste Disposal: Describe the quantity and composition of projected solid wastes to be generated by the project including average weekly volume in cubic yards of refuse generated; recycling potential; method of on-site storage and collection. Evaluate the impact to the Town's recycling facility and waste disposal capability (for single family or multi-family residential projects).
 - c. Emergency Services: Describe the anticipated fire and police protection needs including time and demand on municipal personnel; provision for alarms or warning devices; on-site fire fighting and security capabilities; need for increased municipal personnel or equipment. Estimate the cost and discuss the responsibility for providing emergency protection to the project. Consultation with the Police and Fire Department is required.
 - d. Schools only applicable (for single-family or multi-family residential projects that are granted a Conditional Use Permit to be located in the POD) Describe the projected impact to the public school system including kindergarten, primary, and secondary levels. Identify the schools and school districts to be affected; projected number of students by housing type (i.e. single- family, apartments, townhouses) and number of bedrooms (i.e. one-bedroom two-bedroom etc.); the ability of the specific school(s) to absorb the additional enrollment including impact on classroom size, school bus routing changes, and the annual cost per student to the school system based on publicly available information such as the capital improvement plan. Projected number of students shall be based on relevant data included in the Town's impact fee methodology.

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SECTION VIII — PERFORMANCE OVERLAY DISTRICT

808 IMPACT ASSESSMENT REQUIREMENTS(Cont'd)

C. Impact Assessment Report (Cont'd)

2. The Impact Statement shall assess the following...(Cont'd)

e. Environmental Impact

1. Identify and evaluate the potential impacts of the project on wildlife and wildlife habitat, or endangered plant or animal species or species of concern (see NH RSA 212-A:6), public or private water supply wells, water supply lands and aquifers, groundwater recharge areas and public water supply reservoirs.
2. Describe the types, quantities, shelf life, use and storage methods for hazardous materials and wastes to be used or generated by the project. Include copies of Material Safety Data Sheets (MSDS) for all identified materials. Specify measures that will be taken to prevent a release into the environment.
3. Identify and describe any vibration, noise, odor, glare and heat, or harmful interference that the proposed use will generate, proposed measures to mitigate these effects, and how these measures will ensure compliance with the requirements of Section 603.K.

f. Cultural Impacts

1. Describe the surrounding neighborhood and any scenic, unique geological, historical, or archeological features and recreational areas on the site or in the vicinity of the site which could be affected by the project.
2. Identify the impacts to historic properties, districts, or areas on the property or in the vicinity of the project.

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SECTION VIII — PERFORMANCE OVERLAY DISTRICT

808 IMPACT ASSESSMENT REQUIREMENTS(Cont'd)

- C. Impact Assessment Report (Cont'd)
 - 2. The Impact Statement shall assess the following areas of potential impact: (Cont'd)
 - g. Fiscal Impact - Evaluate the projected costs and benefits to Londonderry resulting from the project including:
 - 1. Value of improvements to public infrastructure to be provided by the project
 - 2. Projected tax revenues to be generated by the project.
 - 3. Projected impact of the project on surrounding land values and any potential loss or increase in tax revenues to the Town
 - 4. Estimate of the number and types of jobs to be created by the project.
- D. Review Standards for Impact Assessments

The Planning Board shall consider the standards included in Section 807 as well as the other standards set forth in this ordinance and in the Site Plan and Subdivision Regulations when reviewing development impacts assessments

809 PRE-EXISTING (NON-CONFORMING) USES, LOTS, AND STRUCTURES

- A. Notwithstanding other provisions of Section VIII, the construction of additions and expansions to pre-existing structures and uses shall be permitted within the POD, governed by the standards of the underlying zoning district, provided that:
 - 1. The use or structure lawfully existed prior to the adoption of the POD by the Town Council;
 - 2. The proposed construction conforms to all other applicable ordinances and regulations of the Town of Londonderry; and
 - 3. The structure or use continues in its present use, and does not constitute a change of use.
- B. Notwithstanding other provisions of Section VIII, lots of less than 3 Acres in size within the POD shall be governed by the standards of the underlying zoning district, provided that:
 - 1. The lot lawfully existed prior to the adoption of the POD by the Town Council; and
 - 2. Any proposed construction conforms to all other applicable ordinances and regulations of the Town of Londonderry.

SECTION VIII-A — PERFORMANCE OVERLAY DISTRICT - ROUTE 28 CORRIDOR

801-A AUTHORITY

The section is enacted in pursuant to RSA 674:21, Innovative Land Use Controls, which provides the Statutory authority for the Town of Londonderry to provide Intensity and Use Incentives, Impact Zoning, Performance Standards, and the ability for the Planning Board to grant Conditional Use Permits. The Planning Board shall be solely responsible for the interpretation and administration of this ordinance, including the granting of all conditional use permits relative thereto. Any decision made by the Planning Board under this Performance Overlay District ordinance may be appealed directly to Superior Court in the same manner provided by RSA 677:15.

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SECTION VIII-A — PERFORMANCE OVERLAY DISTRICT - ROUTE 28 CORRIDOR (Cont'd.)

802-A PURPOSE AND INTENT - ROUTE 28 CORRIDOR

- A.** *Because the Town of Londonderry has experienced an increase in development along the Town's main traffic corridors and anticipates such growth will likely continue, (including the widening of Interstate 93, and industrial development south of the Manchester Airport), because said development will generate growth related impacts (increased traffic congestion, infrastructure requirements, demand for public services, reduced aesthetics, etc.) utilizing the corridors, because traditional zoning techniques may not produce the type of development envisioned by the community through recent surveys and public outreach:*
- 1.** *Guide the form of business development to occur in keeping with community objectives for compatible, appropriate development;*
 - 2.** *Tune regulatory systems to encourage businesses to more efficiently use the circulation system*
 - 3.** *Regulating development to ensure that it can be supported by planned infrastructure, taking into consideration that required infrastructure must be appropriate to the context and must be supportive of environmental and community character concerns; and*
 - 4.** *Include consideration of impact upon natural and cultural resources in review of development proposals*

The Town hereby adopts this overlay district to guide the development of land through the use of performance standards, incentives for quality development, and impact assessments to ensure the desired development pattern along the major traffic corridors of Londonderry.

- B.** *The purpose of the Route 28 Performance Overlay District is:*
- 1.** *To minimize adverse traffic impacts on the corridors and surrounding local roadways;*
 - 2.** *To promote and attract high quality, diverse, and sustainable economic development within the district by utilizing performance standards and flexibility and providing for development that preserves appropriate open space and builds upon the landscaping design, and visual character standards of the Town's Site Plan Regulations;*
 - 3.** *To minimize negative impacts to the environment such as water quality, air quality, prevention of noise pollution, light pollution, and to other important natural and cultural resources.*
 - 4.** *To protect the remaining aquifers within the Town of Londonderry.*
 - 5.** *To provide an appropriate mix of uses for the areas abutting the natural complex formed by areas such as the Musquash Conservation Area, Kendall Pond area, Scobie Pond area, the Litchfield State Forest, etc.*

803-A DISTRICT DEFINED - ROUTE 28 CORRIDOR

- A.** *The Performance Overlay District shall be described as including the lots identified on the "Performance Overlay Zone" Map and specifically as follows:*

On Tax Map 15: 21, 21-1, 22, 22-1, 23, 23-1, 23-2, 25, 25-1, 26, 27, 28, 51, 54, 55, 56, 58, 59, 60-2, 60, 60-2, 61, 61-1, 61-2, 61-4, 61-5, 61-7, 61-8, 62, 63, 64, 65-2, 66, 66-1, 67, 68, 69, 70-1, 70, 71, 124, 125, 126, 127, 128, 133, 134, 136, 137, 146, 147, 148, 149, 150, 153, 154, 155, 156, 157

- B.** *The term "overlay district" means a zoning district superimposed on one or more established zoning districts to impose supplemental requirements, restrictions, and performance standards on uses in the district.*

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804-A CONFLICTS WITH UNDERLYING ZONING STANDARDS

See Section 804.

805-A USES PERMITTED

See Section 805.

806-A CONDITIONAL USE PERMITS

- A.** *All uses permitted by Conditional Use Permit in the Performance Overlay District are subject to site plan review by the Planning Board. Prior to Planning Board approval of a Conditional Use Permit, the applicant must demonstrate, through the Impact Assessment requirements of Section 808-A, that the proposal will meet all of the appropriate performance standards of Section 807-A, the Site Plan Regulations, the Subdivision Regulations, as applicable, and shall be consistent with the purpose and intent of the Route 28 Performance Overlay District in Section 802-A.*
- B.** *Prior to Planning Board action on any site plan or subdivision for a use requiring a Conditional Use Permit, the Board must have already granted the Conditional Use Permit. The Conditional Use Permit may be sought either separately or concurrently with Site Plan/Subdivision approval.*
- C.** *Uses Permitted by Conditional Use Permit*

 - 4.** *Any use permitted in the underlying zoning district, which is not a permitted use in the Performance Overlay District;*
 - 5.** *Warehouses and storage of non-explosive materials;*
 - 6.** *Daycare facilities;*
- D.** *Administration of Conditional Use Permits*
As provided for in RSA 674:21, Innovative Land Use Control, this Section of the zoning ordinance shall provide for the granting of conditional use permits, by the Planning Board, as follows:

 - 1.** *The Planning Board shall then vote either to approve a conditional use permit as presented, approve it with conditions, or deny it.*
 - 2.** *Prior to construction commencing on any use that is granted a conditional use permit, the applicant shall be required to submit a financial surety in accordance with Section 5.01 of the Subdivision Regulations or Section 6.01 of the Site Plan Regulations, whichever is applicable.*
 - 3.** *The applicant may also be assessed reasonable fees to cover the cost of other special investigative studies and for the review of documents required by particular applications, reviews by the Town's legal counsel, and any third party consultant as may be required by the Planning Board per Section 2.01d of the Site Plan Regulations.*

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806-A CONDITIONAL USE PERMITS (Cont'd.)

- E. The following criteria must be satisfied in order for the Planning Board to grant a conditional use permit in the Performance Overlay District. The applicant shall demonstrate that:*
- 1. All performance criteria outlined in Section 807-A, as applicable to the application have been met;*
 - 2. The proposed use is consistent with the purpose and intent of the Performance Overlay District, Section 802-A.*
 - 3. Granting of the application would meet some public need or convenience;*
 - 4. Granting of the application is in the public interest;*
 - 5. The property in question is reasonably suited for the use requested, and the design of the site represents to the extent practicable preservation of natural resources, open space, and does not create a hazard to surface or underground water resources.*

807-A PERFORMANCE STANDARDS

A. Dimensional Performance Standards

- 1. Table of Dimensional Performance Standards: In order to accomplish the goals of this ordinance, development within the Table 2, below.*

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807-A PERFORMANCE STANDARDS (Cont'd.)

A Dimensional Performance Standards (Cont'd.)

Table 2						
Property located on:	Min. Lot Size	Min. Lot Frontage	Max. Structure Height	Max. Building Footprint (3)	Building Setbacks (4)	Max. Impervious Cover
<i>Arterial Road (as defined by appendix A), with public water and sewer</i>	3 Acres	300 feet (1)(2)	45 feet	75,000 Sq. Ft.	See Section 815.A.3	55% (5)
<i>Non-Arterial Roads OR Arterial Road when "Shared access" is used, and with public water and sewer</i>	1 Acre	100 feet (1)(2)	45 feet	75,000 Sq. Ft.	See Section 815.A.3	66% (5)
Table 2 Footnotes:						
<i>(1) Lots with Frontage along both an arterial road and a local road shall be accessed from the local road whenever possible. The Planning Board shall have the authority to allow access on an arterial road in such situations where access from the local road is deemed inappropriate or not feasible, and the NHDOT has issued appropriate permits.</i>						
<i>(2) Minimum frontage requirement must be satisfied from the road providing access to the lot.</i>						
<i>(3) At no point shall the total usable floor area exceed 75,000 square feet.</i>						
<i>(4) At no time shall the minimum front setback be less than 60 feet along an arterial road and 30 feet along a local Road.</i>						
<i>(5) May be increased by an amount equal to the area of easement dedicated for future widening of the arterial road (See section 807.A.3 on Incentive Bonuses)</i>						
<i>(6) On lots with frontage on both an arterial and local road (double frontage), the front setback shall be measured from the property line adjacent to the arterial road.</i>						
<i>(7) As an incentive for use of steep roofs or other architectural elements (clock towers, cupolas, etc.) the Planning Board may, with recommendation from the Heritage Commission, allow for a height bonus not to exceed sixty (60) feet from grade.</i>						

2. Dimensional Incentive Bonus Standards

- a. These incentive bonus standards are designed to reward projects that choose to voluntarily develop their properties in a way that is most compatible with the stated goals and objectives of this District and the Master Plan*
- b. Widening Easement Deeds: Those lots that voluntarily agree to provide easement deeds over the portion of their land within 25 feet of the state right-of-way, thereby reserving this easement area for future widening of the corridor or similar improvements within the corridor, may be compensated for this action by being allowed an impervious surface bonus, to develop their property to an extent greater than otherwise permitted in the Performance Overlay District. The amount of extra impervious coverage shall be equal to the actual computed area of the easement area provided for future improvements. The provision of a widening easement may also qualify for credits to impact fees as outlined in Section XIII.*

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807-A PERFORMANCE STANDARDS (Cont'd.)

3. ***Building Setbacks for POD lots located on NH Route 28***
 - a. ***Front setbacks for lots located along NH Route 28 shall be based on the following performance standards:***
 1. ***Building Footprint of 0 - 10,000 square feet: 60 feet***
 2. ***Building footprint of 10,001 - 25,000 square feet: 100 feet***
 3. ***Building footprint of 25,001 - 40,000 square feet: 12***
 4. ***Building footprint of 40,001 - 60,000 square feet: 150 feet***
 5. ***Building footprint of 60,001 - 75,000 square feet: 200 feet***
 - b. ***Side Setbacks for lots located along Rt. 28 shall be one-half (1/2) the front setback.***
 - c. ***Rear Setbacks for lots located along Rt. 28 shall be one-third (1/3) the front setback, but not less than 30 feet.***

B. *Landscape Performance Standards*

Landscape Performance Standards shall be the same as Section 807.B, with the following exceptions:

1. ***Front Buffer Area***
 - a. ***The front buffer area shall be a strip of variable width (minimum 40 feet wide) between the street tree area and the closest point of a building or impervious surface facing a public right of way. (On lots where there is a widening easement provided, the street tree area may encroach and overlap the front buffer area)***
 - b. ***The front buffer area shall be planted with a minimum of 2 trees for every 30 feet of horizontal building facing a public right of way. Trees planted in this area shall have a height equal to 1/2 the maximum proposed height of a building (but not less than 12 feet from grade or greater than 30 feet from grade) at time of planting.***
 - c. ***Incentive bonus: Every healthy native tree with a caliper of 4 inches or greater, which is preserved in the front buffer area may be substituted for 1 required new front buffer tree planting. Every healthy native tree with a caliper of 6 inches or greater, which is preserved in the front buffer area may be substituted for 2 required new front buffer tree plantings.***
2. ***Side and Rear Buffer Areas***
 - a. ***Required side and rear buffer areas shall begin at the inner limits of the front buffer area and run parallel to the side and rear property lines. The minimum width of these side and rear buffers shall equal to 1/2 the proposed maximum building height, but not less than 20 feet wide. In the event the property abuts a parcel zoned AR-I, the buffer shall be no less than 75 feet wide.***
 - b. ***The side and rear buffers shall be constructed to provide a dense 4 season visual screen in accordance with Section 3.09.e of the Site Plan Regulations.***

C. *Off-Street Parking - See Section 807.C*

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PERFORMANCE STANDARDS (Cont'd.)

D. Signage

Signage Performance Standards shall be the same as Section 807.D, with the following exceptions:

7. Building Mounted Signs

- a. Wall signs may be as large as 1 sq. ft. per 3 linear ft. of building frontage or a maximum of 50 square feet, whichever is less.*
- b. One wall sign is permitted per tenant in a multi-tenant structure, however the total sign square footage on any wall or facade shall not exceed 100 square feet.*

E. Lighting - See Section 807.E

F. Environmental Performance Standards - See Section 807.F

808-A IMPACT ASSESSMENT REQUIREMENTS

See Section 808.

809-A PRE-EXISTING (NON-CONFORMING) USES, LOTS, AND STRUCTURES

See Section 809.

~~End of Section~~