

1 **LONDONDERRY, NH PLANNING BOARD**  
2 **MINUTES OF THE MEETING OF MARCH 11, 2015 AT THE MOOSE HILL**  
3 **COUNCIL CHAMBERS**  
4

5 Members Present: Art Rugg; Mary Soares; Laura El-Azem; Jim Butler, Ex-Officio;  
6 Rick Brideau, CNHA, Ex-Officio; Scott Benson; Leitha Reilly, alternate member; Al  
7 Sypek, alternate member; and Ann Chiampa, alternate member  
8

9 Also Present: Cynthia May, ASLA, Town Planner and Planning and Economic  
10 Development Department Manager; John Vogl, Comprehensive Planner and GIS  
11 Manager; Jaye Trottier, Associate Planner; and Nicole Doolan, Planning and  
12 Economic Development Department Secretary  
13

14 A. Rugg called the meeting to order at 7:00 PM. He appointed L. Reilly to vote for  
15 Lynn Wiles and A. Sypek to vote for Chris Davies.  
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17 **Administrative Board Work**  
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19 A. Election of Officers  
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21 **M. Soares made a motion to nominate A. Rugg as Chair of the Planning**  
22 **Board. J. Butler seconded the motion. No discussion. Vote on the**  
23 **motion: 7-0-0.**  
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25 [S. Benson arrived at 7:03].  
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27 **L. Reilly made a motion to nominate M. Soares as Vice Chair of the**  
28 **Planning Board. J. Butler seconded the motion. No discussion. Vote on**  
29 **the motion: 8-0-0.**  
30

31 **M. Soares made a motion to nominate L. Wiles as Secretary and**  
32 **L. El-Azem as Assistant Secretary of the Planning Board. R. Brideau**  
33 **seconded the motion. No discussion. Vote on the motion: 8-0-0.**  
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35 A. Rugg noted that the Board's Rules of Procedure will need to be amended  
36 since they call for the election of officers in April, yet the State now requires  
37 that Boards and Commissions submit the present year's election results by the  
38 end of March.  
39

40 B. Discussions with Town Staff  
41

- 42 • Workforce Housing Proposal (Data)

43 At the January 7, 2015 meeting, the Board directed Staff to obtain a  
44 proposal from the Southern NH Planning Commission (SNHPC) for a  
45 housing needs assessment that would provide an inventory of workforce  
46 housing in Londonderry and aid in the attempt to determine whether  
47 Londonderry has created its "fair share" of workforce housing per State  
48 statute.

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J. Vogl reported that based on the proposal submitted, Staff determined, along with Chairman Rugg, that the quote was excessive. Staff will instead perform the review to identify the current supply of housing units, the cost breakdown of those units, what percentage are affordable, and what percentage are available at specific price points. While it will not be a "fair share" analysis per se, the data that Staff would have provided to SNHPC will be compiled to address the aforementioned issues. M. Soares asked if the report would identify how many rental units exist in town, along with their average rent. J. Vogl said Staff would be using a statewide survey to obtain rental cost information, therefore rents specific to Londonderry would be difficult to ascertain. He said if other information is available, it will be pursued. A. Rugg noted that the report will aid in the zoning ordinance update that was recently begun. He also suggested inviting Economist Dennis Delay to a future Planning Board meeting to discuss changing demographics in New Hampshire.

[C. May left the meeting and did not return].

**Public Hearings/Workshops/Conceptual Discussions**

A. Elderly Housing Unit Limitation Determination – Discussion regarding the determination in accordance with Section 3.6.6 of the Zoning Ordinance whether the total number of existing and proposed elderly housing units exceeds a number representing the percentage of units greater than the percentage of persons age 55 and older residing in Londonderry.

J. Vogl stated that Staff has determined that the Town is in compliance with Section 3.6.6 of the zoning ordinance since the proportion of residents 55 and over in Londonderry stands at 22.1% of the total population, while the supply of age restricted units in town is roughly 6% of the current housing supply (see Attachment #1).

A. Rugg asked if Board members had any questions. There were none.

B. Planning Board Workshop – Planning Board to discuss the proposed amendments to the zoning ordinance related to housing opportunities in Londonderry, including Work Force Housing, Housing for Older Persons, Inclusionary Zoning, Multi-family Housing, Assisted Living Residence, Village Plan Alternative, and Accessory Dwelling Units.

Consultant Jonathan Edwards explained that the proposed amendments presented this evening resulted from the Board's February 11<sup>th</sup> zoning ordinance audit workshop and preliminary discussion of zoning and housing opportunities in Londonderry. The findings and recommendations concerning housing policies and other issues in Londonderry reviewed at that meeting formed the basis for the proposed revisions. J. Edwards and Staff reviewed all

1 sections of the zoning ordinance pertaining to housing following the February  
2 11 workshop, in particular to address concerns about the impacts of large-  
3 scale, multi-family workforce housing developments, i.e.:

- 4
- 5 a. Incompatibility with single-family residential neighborhoods;
- 6 b. Higher levels of traffic on residential streets;
- 7 c. Limiting the provisions for ensuring project feasibility; and
- 8 d. Failing to effectively promote more diverse and innovative types of  
9 workforce housing that are in character with neighborhoods.

10  
11 In the process, J. Edwards and Staff addressed other issues such as elderly  
12 housing, small-scale workforce housing, verification of income requirements,  
13 and combining and/or deleting repetitious language in both the ordinance and  
14 site and subdivision regulations. It was explained that the Planning Board  
15 could publicly post the proposed amendments which would, after being posted,  
16 pause the review of any housing developments that would be affected by any  
17 of the amendments, until such time as the Town Council adopts or does not  
18 adopt the amendments. The posted amendments would not apply retroactively  
19 to projects already approved by the Planning Board, or those whose  
20 applications have been accepted as complete by the Board and for which a  
21 public hearing has been held. Once the draft language is posted, the Planning  
22 Board can hold a public hearing, during which they can determine the final  
23 language with input from Staff and the public. If needed, the Board can opt to  
24 revise the amendments over the course of a series of public hearings. Once  
25 the Board finds the proposed language to be satisfactory, a recommendation  
26 can be made to the Town Council. The Council would vote to either adopt or  
27 reject the recommended amendments after having two readings, the second of  
28 which would be their own public hearing.

29  
30 [Note: Italicized sections below are taken from Attachment #2. Non-italicized  
31 portions indicate additional comments and/or questions arising from the  
32 workshop discussion].

33  
34 J. Edwards began with an outline of the purposes of the draft amendments:

- 35
- 36 a. *Prevent further large-scale multi-family workforce housing*  
37 *developments in single-family neighborhoods.*
- 38 b. *Comply more fully with statutory requirements that the Town*  
39 *“provide reasonable and realistic opportunities for the development of*  
40 *workforce housing, including rental multi-family housing,” and that*  
41 *“zoning inducements and requirements must be structured so as not*  
42 *to render workforce housing developments economically unviable.”*
- 43 c. *Allow multi-family workforce housing to be located in appropriate*  
44 *zoning districts and according to stipulations that promote project*  
45 *feasibility.*
- 46 d. *Continue compliance with statutes that “lot size and overall density*

1                    *requirements for workforce housing are to be reasonable,” and that*  
2                    *“workforce housing is to be located in a majority, but not necessarily*  
3                    *all, of the land area that is zoned to permit residential uses.”*

4                    *e. Provide practicable ways for the development of more types of*  
5                    *diverse, dispersed, small-scale workforce housing compatible with*  
6                    *residential areas, including single-, two-, three-, and four-family*  
7                    *workforce housing and accessory dwelling units.*

8                    *f. Merge workforce housing and general standards and procedures for*  
9                    *Conditional Use Permits.*

10                  *g. Extend opportunities for more diversified elderly housing and assisted*  
11                  *living facilities and nursing homes.*

12                  *h. Abolish the Town’s responsibility to administer workforce housing*  
13                  *income verification requirements and procedures.*

14                  *i. Eliminate language that repeats regulatory requirements found in*  
15                  *Site and Subdivision regulations.*

16  
17                  J. Edwards then reviewed the individual proposed amendments using a memo  
18                  (see Attachment #2) as a companion guide to a draft copy of the actual  
19                  changes within the ordinance itself (see Attachment #3). A. Rugg said Board  
20                  members could comment or ask questions about the each amendment as they  
21                  were presented. Once the entire document is reviewed and Board comments  
22                  and questions are addressed, A. Rugg said public input would be entertained.  
23

24                  *Recommended Changes for a Zoning Amendment:*

25  
26                  1. *Table of Contents – As part of the comprehensive overhaul of the*  
27                  *ordinance, the entire document will be reorganized to become more “user*  
28                  *friendly”. One of those changes will be to include all residential and housing*  
29                  *options in the same section of the ordinance. This proposed amendment*  
30                  *does not reorganize the zoning ordinance contents to include all residential*  
31                  *and housing options in the same section at this time.*  
32

33                  2. *Section 1.3.3 Phasing of Developments:*

34                  *a. Amend Section 1.3.3 to allow as many buildings as practical to be*  
35                  *constructed per year without limiting it where there are less than 24*  
36                  *units per building, such as for 6 unit townhouse structures. As*  
37                  *identified in recent fiscal analysis reports presented for workforce*  
38                  *multi-family housing, it appears that the construction of less than 72*  
39                  *units per year is not financially feasible, so the regulations increase*  
40                  *the maximum number from 48 to 72 units, which reflects*  
41                  *construction of three 24 unit buildings.*

42                  *b. Delete Section 1.3.3.E because there are no longer any previously*  
43                  *approved and unconstructed elderly projects in Londonderry. Also*  
44                  *delete Section 2.3.3.3.A.1 for the same reason.*  
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47

1        3. Section **2.2**. Use Table:

- 2            a. Delete "C 3" from "Dwelling, multi-family" row in AR-1, R-III, C-I, C-  
3            II, C-III, and C-IV columns.
- 4            b. Change "C3" to "C" in "Dwelling, multi-family" row in C-I, C-II, C-III,  
5            C-IV columns. Delete from R-III.
- 6            c. Add "C" to "Dwelling, multi-family" row in MUC and POD columns;  
7            thus allowing multi-family in those districts subject to a Conditional  
8            Use Permit.
- 9            d. Add **new category** row "Dwelling, workforce multi-family" as "C 3"  
10           in R-III, C-I, C-II, C-III, C-IV, MUC, POD, and PUD columns.
- 11           e. Add **new category** row "Small Workforce Housing Development" as  
12           "C3" in AR-1.
- 13           f. Add "C 3" to "Mixed use residential" row in C-IV, and MUC columns  
14           so that they read "P, C 3", and C3 in the POD districts.
- 15           g. In the "Elderly Housing" row, add "C" to the MUC column.
- 16           h. Add **new category** row "Elderly housing, Affordable" as "C" in the  
17           AR-1, R-III, C-I, C-II, C-III, C-IV, MUC, and POD columns, and as  
18           permitted in the PUD.
- 19           i. **Add** a row for **Live-Work Units** with "C" in the C-IV, MUC, Ind-1  
20           and Ind-2 columns, and permitted in PUD.
- 21           j. Add "P" in the Nursing Home row under the MUC column.

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24        [Continued on next page].  
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The above changes are also shown below in red text; "P" = Permitted by Right, "C" = Conditional Use Permit Required and "C<sup>3</sup>" = Conditional Use Permit Required, Along with Specific Criteria Related to Workforce Housing.

Londonderry Zoning Ordinance Use Table																		
P = Permitted Use C = Requires Conditional Use Permit S = Requires Special Exception																		
														Overlay Districts				
	AR-1	R-III	C-I	C-II	C-III	C-IV	MUC	IND-I	IND-II	GB	PUD	AD	POD-102 <sup>1</sup>	POD-28 <sup>1</sup>	CO	AH	AZ	FP
<b>RESIDENTIAL AND AGRICULTURAL</b>																		
Agriculture	P	P										P <sup>5</sup>						
Assisted Living Facilities	<u>C</u>	P	P	P	P		P					P <sup>5</sup>	P	P				
Back Lot Development	C											P <sup>5</sup>			See specific district regs.			
Dwelling, multi-family	<u>C<sup>3</sup></u>	<u>P C<sup>3</sup></u>	<u>C<sup>3</sup> C</u>	<u>C<sup>3</sup> C</u>	<u>C<sup>3</sup> C</u>	<u>C<sup>3</sup> C</u>	<u>C</u>					P <sup>5</sup>	<u>C</u>	<u>C</u>				
Dwelling, multi-family workforce		<u>C<sup>3</sup></u>	<u>C<sup>3</sup></u>	<u>C<sup>3</sup></u>	<u>C<sup>3</sup></u>	<u>C<sup>3</sup></u>	<u>C<sup>3</sup></u>					<u>P<sup>3</sup></u>	<u>C<sup>3</sup></u>	<u>C<sup>3</sup></u>				
Small workforce housing development	<u>C<sup>3</sup></u>																	
Dwelling, single family	P, C <sup>3</sup>	P, C <sup>3</sup>	C <sup>3</sup>	C <sup>3</sup>	S, C <sup>3</sup>	C <sup>3</sup>						P <sup>5</sup>						
Dwelling, two-family	P, C <sup>3</sup>	P, C <sup>3</sup>	C <sup>3</sup>	C <sup>3</sup>	S, C <sup>3</sup>	C <sup>3</sup>						P <sup>5</sup>						
Elderly Housing	P	P	P	P	P	P	<u>C</u>					P <sup>5</sup>	P	P				
Elderly Housing, Affordable	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>					<u>P<sup>3</sup></u>	<u>C</u>	<u>C</u>				
Live-Work Units			<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P<sup>3</sup></u>						
Manufactured housing	P, C <sup>3</sup>	P, C <sup>3</sup>																
Mixed use residential						<u>P, C<sup>3</sup></u>	<u>P, C<sup>3</sup></u>					P <sup>5</sup>	<u>C<sup>3</sup></u>	<u>C<sup>3</sup></u>				
Mobile homes	P																	
Nursing Home and accessory uses		P	P	P	P		<u>P</u>					P <sup>5</sup>	P	P				

M. Soares asked why affordable elderly housing would be permitted in the AR-I zone when multi-family dwellings are not, considering the higher density of the former that could be similar to the latter. J. Edwards noted that there are specific stipulations to affordable elderly housing in the AR-I zone via a Conditional Use Permit (CUP), which would restrict them to a smaller scale and require characteristics which would blend them with the surrounding residential area. Elderly housing also typically does not produce significant increases in traffic or noise that standard multi-family housing would, which is why multi-family was removed from the AR-I zone.

1 J. Vogl added that in directing multi-family housing towards commercial  
 2 districts, they would tend to be placed in areas where the infrastructure and  
 3 traffic impacts could be more readily absorbed. Doing so would also foster  
 4 a mixed use component to housing in Londonderry and possibly increase  
 5 the tax revenues of those properties. While workforce housing, other than  
 6 multi-family, would be allowed in a majority of the town with these  
 7 changes, the new category of small-scale workforce housing via CUP would  
 8 ensure its suitability to its residential surroundings.

- 9  
 10 4. *Replace Section **2.3.1.7 Accessory Apartments** with new language that*  
 11 *allows increased flexibility for homeowners while retaining aesthetic*  
 12 *controls. ADU's [Accessory Dwelling Units] have been identified as one of*  
 13 *the most compatible methods for providing affordable housing within*  
 14 *existing neighborhoods. Section **3.4.1.3.F** was also deleted to permit*  
 15 *Accessory Dwelling Units in backlots, as well as to remove the limitation to*  
 16 *single family houses, opening up the opportunity for Small Workforce*  
 17 *Housing Development.*

18  
 19 The accessory apartment concept would therefore be broadened to that of  
 20 accessory dwelling unit, providing more options to homeowners, including  
 21 the idea that such units could be in ancillary structures separate from the  
 22 main dwelling. They would also be permitted in new construction,  
 23 something not allowed under the current ordinance. The new language  
 24 would also provide opportunities for ADUs in backlot developments where  
 25 accessory apartments are currently prohibited. Living space would also be  
 26 increased from 750 square feet per unit to 1,000 sf, and while the property  
 27 owner must still reside on site, they could now occupy either the main  
 28 residence or the accessory dwelling unit. Thirteen separate stipulations  
 29 would provide the Board with the aesthetic controls mentioned in J.  
 30 Edwards' memo to ensure the unit does not stand out as a separate living  
 31 unit, but blends with the appearance of the principle dwelling and appear  
 32 only as an extension of the main house (see Attachment #3, pp. 25-26). R.  
 33 Brideau asked how many bedrooms would be allowed, but J. Edwards  
 34 explained that the restriction would now be on the overall square footage of  
 35 the self-sustaining unit. In the event that municipal sewer and water are  
 36 not available, the unit must comply with the well and septic provisions of  
 37 the NH Department of Environmental Services (DES).

- 38  
 39 5. *Amend Section **2.3.3.3.A.** to remove the zoning districts listed and instead*  
 40 *refer to the Use Table.*

41  
 42 Since zoning districts within the ordinance can change over time, this is a  
 43 simple amendment to the applicability section of the workforce housing  
 44 ordinance. The point is to refer the user to the Use Table (Section 2.2),  
 45 making additional amendments to Section 2.3.3.3.A unnecessary.

- 46  
 47 6. *Merge workforce housing and the general standards and procedures for*  
 48 *Conditional Use Permits into one location under Section **2.3.3.4 Conditional***  
 49 *Use Permit Criteria for Workforce Housing. The new language includes*  
 50 *general workforce housing criteria [which would apply to all forms of*

1 workforce housing allowed under the ordinance], *followed by criteria*  
2 *specifically applicable to multi-family workforce housing. By eliminating*  
3 *Section 2.3.3.7 [i.e. standards and requirements for multi-family workforce*  
4 *housing], the standards calling for a minimum of 75% workforce housing*  
5 *units per development, and a minimum tract size of 20 acres have both*  
6 *been deleted. The new recommendation calls for a minimum of 33%*  
7 *workforce units. [The size of the tract is determined through existing*  
8 *requirements for regular multi-family housing in whichever zone it is*  
9 *proposed]. All the remaining applicable language within the former Section*  
10 **2.3.3.7** *was incorporated into the new Section 2.3.3.4 Conditional Use*  
11 *Permit Criteria for Workforce Housing (Attachment #3, pp. 32-36).*

12 a. *Section 2.3.3.7.B Development Plan was deleted because it repeats*  
13 *the requirements of Site and Subdivision regulations and causes*  
14 *confusion because it implies that an additional site plan or step in the*  
15 *site plan process is required.*

16 b. *Section 2.3.3.7 C Density, Design and Dimensional Standards was*  
17 *deleted, and applicable sections reincorporated into Section 2.3.3.4.*  
18 *This eliminates the requirement for 16 units per multi-family building.*  
19 *Suggested language does not limit workforce multi-family except per*  
20 *the height limits of the district and per life-safety requirements [as*  
21 *well as existing setbacks applicable to multi-family housing].*

22  
23 M. Soares questioned the need to allow four story structures as noted in item  
24 6.b of the memo. J. Edwards answered that the rationale pertained to  
25 encouraging project financial feasibility, but noted the restriction is up to the  
26 Board. J. Vogl noted that a 50-foot height would be restricted to non-  
27 residential zones. The consensus of Board members was to limit the height to  
28 three stories. A. Rugg stated actual height in feet would need to be  
29 determined at some point by the Board).

30  
31 J. Edwards pointed out that the permitted density for multi-family workforce  
32 housing would be a maximum of 10 units per acre, which is double the density  
33 of market rate multi-family. There would also be no maximum number of  
34 dwelling units, provided there is compliance with all safety and building codes.  
35 A. Rugg stated that the Board may have to consider the higher degree of  
36 flexibility allowed under that language. Since all of these criteria are part of  
37 the CUP required for workforce housing, J. Edwards noted that the Board has  
38 significant (and improved) discretion in order to achieve compatibility between  
39 the proposed development and its surrounding area. J. Vogl pointed to the  
40 example of increased density allowed in the All American Assisted Living  
41 Facility (Map 7 Lot 132-1), where the design, which was received favorably by  
42 the Board, mitigated the overall number of units included in the structure. J.  
43 Edwards also offered that the draft language would preclude the need for the  
44 variances that have been sought in recent years for multi-family workforce  
45 housing by providing the financial feasibility needed to build the developments,  
46 while at the same time precluding the existence of multi-family workforce  
47 housing in single family residential neighborhoods.



1 7. *Amend Section 2.3.3.5 Definitions Specific to this Section to remove*  
 2 *items no longer applicable, and add new uses introduced into the Use Table.*  
 3 *Ideally, the definitions would all be located in one place in the ordinance.*

4  
 5 8. *Replace the language and chart in Section 2.3.3.6 with new language*  
 6 *related to the criteria for Small Workforce Housing Developments.*

7  
 8 This amendment will eliminate the single family & duplex workforce housing  
 9 categories and incentives, and replace that with the new classification of Small  
 10 Workforce Housing Developments (Attachment #3, pp. 35-36). J. Vogl  
 11 reiterated that this provision will satisfy the statutory requirement that  
 12 workforce housing be available in a majority of the town's residential districts.  
 13 J. Edwards pointed to examples of the smaller scale design included in  
 14 illustrations of the "Housing Opportunities in Londonderry – Appendix" (see  
 15 Attachment #4). J. Edwards described the incentives as being achievable but  
 16 not overwhelmingly complex. It is up to the Board, he said, to find that the  
 17 proposed small workforce housing development is harmonious in function,  
 18 appearance and effects on the surrounding neighborhood in order to grant the  
 19 requisite CUP. While the situation would be a subjective one for the Board, this  
 20 section will better enable the Town to achieve a goal of the Master Plan, which  
 21 is to provide a greater diversity of housing, for both residents and developers.

22  
 23 M. Soares asked what size an individual lot would have to be to contain 1-4  
 24 workforce units as described in proposed Section 2.3.3.6. J. Edwards replied  
 25 that the lot would need to be at least ¼ acre per unit if public water and sewer  
 26 are available, and if not, the lot area must comply with NHDES standards for  
 27 private well and septic, just as any single family or duplex market rate lots  
 28 would need to do. A. Chiampa verified with J. Vogl and J. Edwards that the  
 29 provisions of the zoning ordinance do not supersede any private covenants in a  
 30 development, although J. Edwards added that no covenant can be created that  
 31 would breach any law, including zoning laws.

32  
 33 9. *Replace the language and chart in Section 2.3.3.7 Standards and*  
 34 *Requirements for Multi-family Workforce Housing with new language*  
 35 *related to the criteria for Live-Work Units.*

36  
 37 Live-Work units (Attachment #3, p. 36) would introduce an entirely new  
 38 concept to the ordinance, creating an economical housing choice for  
 39 professionals who could live in the same dwelling where their business is  
 40 located. While the occupations included would be limited to those of a smaller  
 41 scale, the list itself is wide and varied. J. Edwards explained that home  
 42 occupations presently allowed under the ordinance are restricted to being  
 43 incidental to the use of the dwelling as a residence, whereas this option would  
 44 put the uses on a more equal footing. While not allowed in residential districts,  
 45 such units would be permitted in all commercial and industrial districts with the  
 46 granting of a CUP, as well as in Planned Unit Developments (PUDs). This  
 47 would introduce a new residential component to those districts. J. Vogl said  
 48 the use is an up and coming one in the entrepreneurial world, is encouraged in  
 49 the Master Plan, and could be used to infill the smaller lots in the commercial  
 50 and industrial districts. J. Edwards noted the potential of this housing choice to

1 revitalize those areas. A. Rugg also noted the possibility of attracting younger  
2 residents with these units, something the Town has found challenging using  
3 existing housing stock. Applicable dimensional and density standards, J.  
4 Edwards explained, would be the same as those already in use in those  
5 individual zones.

6  
7 **10. Delete Section 2.3.4 Retention of Housing Affordability.** *This section*  
8 *was based on model language provided by NH Housing and Finance*  
9 *Authority in 2009 at the time workforce housing ordinances were being*  
10 *developed. Most communities crafted their ordinances without the onerous*  
11 *requirements within this model. New language that is similar to other*  
12 *communities, including Bedford, is provided in a revised Subsection*  
13 **2.3.3.8**, *predicated on the elimination of existing Sections 2.3.3.8 and*  
14 **2.3.3.9** *(with explanations provided later in this document).*

15  
16 J. Edwards encouraged the Board to lessen the Town's exposure to liability  
17 issues that could arise through the current language of current Section 2.3.4,  
18 particularly since it goes beyond what is statutorily required of the Town in  
19 terms of monitoring continued affordability in workforce housing developments.  
20 The owner, i.e. the party who obtained the benefit of the special allowances  
21 associated with the town's workforce housing ordinance, would now bear the  
22 responsibility of reporting compliance on an annual basis to the satisfaction of  
23 the Planning and Economic Development Department. When using any kind of  
24 governmental subsidy, he explained, developers must already verify the  
25 validity of their financing each year to the entity providing the funding,  
26 therefore the Town would simply need to require a copy of those submissions.  
27 Enforcement of the new subsections would also become consistent with current  
28 methods of enforcement under this language.

29  
30 L. Reilly questioned whether eliminating current Section 2.3.4 would also  
31 eliminate protections for the Town through such tools as subsidy liens,  
32 restrictive covenants and foreclosures. J. Edwards answered that retaining  
33 what are termed "protections" actually places the Town in a fiduciary  
34 relationship with a development, which is legally inappropriate, unadvisable  
35 and, as previously described, unnecessary. It also would make personal  
36 information of residents with low to moderate income public information. The  
37 Town's only responsibility, he said, is to verify the continuing affordability of  
38 established workforce housing units for individuals who are income qualified  
39 under Federal standards. L. Reilly verified with J. Edwards that the proposed  
40 language follows current standard practice. J. Butler asked what protections  
41 the Town would have if a developer abandons an approved project for financial  
42 reasons. J. Edwards said those concerns can be addressed through the CUP  
43 criteria where the Town can require a completion bond from the developer  
44 before a plan is approved. The Town should furthermore consult with the bank  
45 holding the bond to ensure they do not release it prematurely in the event that  
46 the developer ceases to exist as a commercial entity.

47  
48 **11. Eliminate Section 2.3.3.8 Conversion of Previously Approved Unbuilt**  
49 **Elderly Housing Development to Workforce Housing** *and all references*  
50 *to this section.*

1  
2 **12. Eliminate Section 2.3.3.9 General Requirements of Workforce Units**  
3 *where the applicable language was incorporated into Section 2.3.3.4.*  
4

5 Both Sections 2.3.3.8 and 2.3.3.9 currently in the ordinance would simply be  
6 replaced with the proposed subsections discussed under item 10 above. Any  
7 applicable language in the present-day 2.3.3.9 would become part of the  
8 revised Section 2.3.3.4 (see item 6 above).  
9

10 **13. Change Section 2.3.3.12 to Section 2.3.3.9 and amend any references in**  
11 *the ordinance to Section 2.3.3.12 to Section 2.3.3.9.*  
12

13 Aside from updating two references in current Section 2.3.3.12, this proposed  
14 change would simply renumber the section based on previously discussed  
15 amendments.  
16

17 **14. Amend 2.4.5 D. Conditional Use Permits for the MUC Sub-district to**  
18 *allow multi-family workforce.*  
19

20 When a multi-family workforce housing development is proposed for a property  
21 zoned Mixed Use Commercial, it is subject to the CUP provisions of proposed  
22 Section 2.3.3.4 (see item 6). This would again promote one of the goals of the  
23 Master Plan.  
24

25 **15. Amend Section 3.6 ELDERLY HOUSING** [see Attachment 3, pp. 125-130]:  
26

27 *a. Include assisted living in the elderly housing section.*

28 *b. Add "small lot elderly" and assisted living to the list requiring  
conditional use permits*

29 *c. Delete the open space definition. Open space is defined elsewhere in  
30 the ordinance.*

31 *d. Add the definition of assisted living.*

32 *e. Delete the requirement of a minimum lot size for elderly to promote  
33 smaller neighborhood scale homes.*

34 *f. Delete the requirement that elderly units be separated by twice the  
35 distance of apartment buildings [as there is no apparent valid  
36 rationale for the difference].*

37 *g. Delete the internal setback requirement to promote the village  
38 setting.*

39 *h. Delete the requirement that elderly housing buffer themselves from  
40 other residential or more intense industrial and commercial uses.*

41 *i. Change the parking requirement for elderly housing to read 1.5  
42 spaces per unit. Fix the discrepancy with the assisted living  
43 requirement so that it's 0.5 spaces per bed, not unit, and add one  
44 space per each employee at the largest shift.*

45 *j. Delete the requirement for 16 unit maximum per building.*

- 1 k. *Delete the requirement for elderly to have two bedroom units. Many*  
2 *older seniors prefer one, which is more affordable.*
- 3 l. *Delete the requirement for elderly housing to have more open space*  
4 *than any other use or district.*
- 5 m. *Limit the required support services to what seniors need and want.*  
6 *The original list came from the early days of creating housing for*  
7 *people 62 and over, but the provisions drive up the cost of housing*  
8 *for seniors who are not seeking housing with a lot of services [or*  
9 *special facilities]. Services and facilities provided in a given elderly*  
10 *housing development can therefore be market driven. This alone*  
11 *increases the variety of housing for seniors.*
- 12 n. *Allow more density for senior housing to make it more affordable.*
- 13 o. *Allow sites without municipal sewer and water to comply with NHDES*  
14 *standards in establishing density.*
- 15 p. *Delete the density standards for Assisted Living in Section 3.7.1.*  
16 *Allow to be constructed by the same standards as elderly housing.*

17  
18 16. Amend Section **3.10: PARKING** to address the changes made to the  
19 *elderly housing, and assisted living parking requirements noted above.*  
20

21 This is simply another housekeeping item resulting from other changes.  
22

23 J. Vogl summarized that by using J. Edward's February 11<sup>th</sup> housing  
24 opportunities memo from as a guide, he and Staff examined numerous sources  
25 to arrive at the suggested amendments, along with new housing trends and  
26 demands, as well as the Town's 2013 Master Plan and the history of proposed  
27 workforce housing under the current ordinance.  
28

29 A. Rugg asked for additional Board input. There was none.  
30

31 Although not a public hearing, A. Rugg entertained public input.  
32

33 Deb Paul, 118 Hardy Road, suggested that the Planning Board and Zoning  
34 Board be familiar with the issues being handled by each at any given time so  
35 both are adequately informed. She claimed, for example, that Zoning Board  
36 members were not aware of the Planning Board's audit of the zoning  
37 ordinance. A. Rugg said the comment would be taken under advisement.  
38

39 D. Paul also requested that the Board do something to limit the level of  
40 development that can occur in one area in a given time period. She said the  
41 burdens placed on residents when multiple projects are being constructed  
42 simultaneously should be considered as the Board approves various projects.  
43 She gave the example of the following taking place within a two mile radius of  
44 her residence within a three year period, describing it as unfair to residents in  
45 that area: the expansion of I-93, the proposed Woodmont Commons Planned  
46 Unit Development, the Wallace Farm workforce housing development on  
47 Perkins Road, and the construction of several individual single family

1 residences. A. Rugg noted New Hampshire's tradition of decentralizing  
2 governmental authority, which dates back to colonial times, and assigns  
3 specific but limited duties to various governmental entities to avoid the  
4 concentration of power in any one area. Growth cannot be restricted in New  
5 Hampshire, he said, only controlled, and those controls are purposefully limited  
6 and disseminated amongst different groups. One result is the potential burden  
7 on particular areas that experience rapid growth over a relatively short span of  
8 time. J. Vogl added that the issue is, in part, one of creating zoning  
9 regulations that direct growth to areas that can best support it. An example  
10 would be the change proposed this evening of no longer allowing multi-family  
11 workforce housing in all zones in town. D. Paul said she was concerned that  
12 the proposed zoning amendments may be "too little, too late." A. Rugg noted  
13 that to fulfill statutory requirements when proposing changes, any government  
14 is typically unable to make those changes expeditiously.

15  
16 There was no further public input.

17  
18 **M. Soares made a motion to post the proposed language for a public**  
19 **hearing to take place on April 8, 2015. J. Butler seconded the motion.**  
20 **No discussion. Vote on the motion, 8-0-0.**

21  
22 A. Rugg directed staff to place the proposed language on the Town website.  
23 Based on further conversation, he also asked that Staff present to revise the  
24 47 pages of strikeouts and additions (Attachment #3) by accepting all  
25 proposed changes in order to show how the proposed language would appear  
26 on its own.

27  
28 J. Edwards and J. Vogl thanked those present for their input. A. Rugg noted  
29 that the Town Attorney vetted the proposed language prior to this meeting.  
30 J. Vogl and J. Edwards noted the significant contributions to the proposal made  
31 by Town Planner Cynthia May, who was unable to attend this portion of the  
32 meeting.

33  
34 **Other Business**

35  
36 J. Vogl stated that the new web-based version of the zoning ordinance is available  
37 on the Town's website and accessible from the home page.

38  
39 **Adjournment:**

40  
41 **L. El-Azem made a motion to adjourn the meeting. M. Soares seconded**  
42 **the motion. Vote on the motion: 8-0-0.**

43  
44 The meeting adjourned at 9:03 PM.

45  
46 These minutes prepared by Associate Planner Jaye Trottier

47  
48 Respectfully Submitted,

49  
50 Laura El-Azem, Assistant Secretary

**MEMO**

Planning and Economic Development  
 Department  
 268B Mammoth Road  
 Londonderry, NH 03053

**Town of Londonderry, NH**

To: Art Rugg, Chair, Londonderry Planning Board  
 From: John Vogl, GIS Manager/Comprehensive Planner  
 CC: Cynthia May, Town Planner/Department Manager  
 Date: 3/11/2015  
 Re: Status of limitation on the number of elderly housing units

The Town of Londonderry includes 9 Over-55 (Elderly Housing) communities, consisting of 436 built and 576 approved units. A breakdown of units by community follows:

Community	Existing Units	Approved Units
Buttrick Place	40	40
Cohas Landing	44	44
Forest Hills	65	65
Harvest Village	45	45
Hickory Woods	35	98
The Nevins	128	128
Parrish Hills	37	37
Sugarplum Lane	36	36
Trail Haven	6	28
(Whittemore) Estates		
<b>Total</b>	<b>436</b>	<b>521</b>

Based on the 2010 US Census count of 8,771 total housing units, the total (existing and proposed) age restricted units account for 5.9% of the current supply.

According to the 2010 US Census, The Town of Londonderry had a total population of 24,129. The population 55 years and older is 5,336 or 22.1% of the total.

Whereas the percent of elderly housing units (5.9%) is less than the percent of persons age 55 (22.1%) or older, the limitation on the number of elderly housing units per section 3.6.6.1 is not in effect at this time.

ZONING ORDINANCE— DRAFT HOUSING AMENDMENT 2015

To: Planning Board , Town of Londonderry, New Hampshire,  
From: Jonathan Edwards, Land-Use and Planning Specialist  
Via: Arnett Development Group LLC (ADG)  
Date: March 11, 2015

**A. Introduction:**

Over the past few months the Arnett Development Group has been working with the professional staff of the Town of Londonderry's Planning and Development Office, the Planning Board, and other municipal leaders and interested parties in reviewing local land-use regulations. Planner Jonathan Edwards has been the lead specialist for this work, and is the lead author for this DRAFT. This work has discovered areas of the current regulations that the principal parties agree might be improved without the necessity of a complete review and rewrite of the regulations; although that still may be required later. One such improvement is a set of amendments to the current Zoning Ordinance, specifically in selected the area of housing regulations. Recently, ADG was asked to draft suggested amendments for review; hence this report.

This is a draft outline of recommended amendments to the Londonderry Zoning Ordinance as a way to positively affect current housing issues. These issues are among those that have been identified in the Housing Opportunities Report from ADG/Edwards of February 2, 2015, particularly those concerning large-scale multi-family workforce housing developments. These developments can be of concern should they:

- a. Be incompatible with single-family residential neighborhoods,
- b. Introduce higher levels of traffic on residential streets,
- c. Limit the provisions for ensuring project feasibility, and
- d. Fail to effectively promote more diverse and innovative types of workforce housing that are in character with neighborhoods.

Addressing the other more comprehensive issues identified in that report can be part of future implementation of the recommendations.

**B. Purpose:**

The purposes of this recommended DRAFT amendment are to:

- a. Prevent further large-scale multi-family workforce housing developments in single-family neighborhoods.
- b. Comply more fully with statutory requirements that the Town "provide reasonable and realistic opportunities for the development of workforce housing, including rental multi-family housing," and that "zoning inducements and requirements must be structured so as not to render workforce housing developments economically unviable."
- c. Allow multi-family workforce housing to be located in appropriate zoning districts and according to stipulations that promote project feasibility.
- d. Continue compliance with statutes that "lot size and overall density requirements for workforce housing are to be reasonable," and that "workforce housing is to be located in a majority, but not necessarily all, of the land area that is zoned to permit residential uses."

## ZONING ORDINANCE— DRAFT HOUSING AMENDMENT 2015

- e. Provide practicable ways for the development of more types of diverse, dispersed, small-scale workforce housing compatible with residential areas, including single-, two-, three-, and four-family workforce housing and accessory dwelling units.
- f. Merge workforce housing and general standards and procedures for Conditional Use Permits.
- g. Extend opportunities for more diversified elderly housing and assisted living facilities and nursing homes.
- h. Abolish the Town’s responsibility to administer workforce housing income verification requirements and procedures.
- i. Eliminate language that repeats regulatory requirements found in Site and Subdivision regulations.

### **C. Recommended Changes for a Zoning Amendment**

- 1. Table of Contents – As part of the comprehensive overhaul of the ordinance, the entire document will be reorganized to become more “user friendly”. One of those changes will be to include all residential and housing options in the same section of the ordinance. This proposed amendment does not reorganize the zoning ordinance contents to include all residential and housing options in the same section at this time.
- 2. Section **1.3.3** Phasing of Developments:
  - a. Amend Section 1.3.3 to allow as many buildings as practical to be constructed per year without limiting it where there are less than 24 units per building, such as for 6 unit townhouse structures. As identified in recent fiscal analysis reports presented for workforce multi-family housing, it appears that the construction of less than 72 units per year is not financially feasible, so the regulations increase the maximum number from 48 to 72 units, which reflects construction of three 24 unit buildings.
  - b. Delete Section 1.3.3.E because there are no longer any previously approved and unconstructed elderly projects in Londonderry. Also delete Section 2.3.3.3.A.1 for the same reason.
- 3. Section **2.2**. Use Table:
  - a. Delete “C 3” from “Dwelling, multi-family” row in AR-1, R-III, C-I, C-II, C-III, and C-IV columns.
  - b. Change “C3” to “C” in “Dwelling, multi-family” row in C-I, C-II, C-III, C-IV columns. Delete from R-III.
  - c. Add “C” to “Dwelling, multi-family” row in MUC and POD columns; thus allowing multi-family in those districts subject to a Conditional Use Permit.
  - d. Add new category row “Dwelling, workforce multi-family” as “C 3” in R-III, C-I, C-II, C-III, C-IV, MUC, POD, and PUD columns.
  - e. Add new category row “Small Workforce Housing Development” as “C3” in AR-1.
  - f. Add “C 3” to “Mixed use residential” row in C-IV, and MUC columns so that they read “P, C 3”, and C3 in the POD districts.
  - g. In the “Elderly Housing” row, add “C” to the MUC column.
  - h. Add new category row “Elderly housing, Affordable” as “C” in the AR-1, R-III, C-I, C-II, C-III, C-IV, MUC, and POD columns, and as permitted in the PUD.



ZONING ORDINANCE— DRAFT HOUSING AMENDMENT 2015

- i. Add a row for Live-Work Units with “C” in the C-IV, MUC, Ind-1 and Ind-2 columns, and permitted in PUD.
- j. Add “P” in the Nursing Home row under the MUC column.

So that the relevant portion of Section 2.2 Use Table will read as follows:

Londonderry Zoning Ordinance Use Table																		
P = Permitted Use C = Requires Conditional Use Permit S = Requires Special Exception																		
													Overlay Districts					
	AR-1	R-III	C-I	C-II	C-III	C-IV	MUC	IND-I	IND-II	GB	PUD	AD	POD - 102 <sup>1</sup>	POD - 28 <sup>1</sup>	CO	AH	AZ	FP
RESIDENTIAL AND AGRICULTURAL																		
Agriculture	P	P										p <sup>5</sup>						
Assisted Living Facilities	<u>C</u>	P	P	P	P		P						p <sup>5</sup>	P	P			
Back Lot Development	C												p <sup>5</sup>		See specific district regs.			
Dwelling, multi-family	<u>C<sup>2</sup></u>	P <u>C<sup>2</sup></u>	<u>C<sup>2</sup> C</u>	<u>C<sup>2</sup> C</u>	<u>C<sup>2</sup> C</u>	<u>C<sup>2</sup> C</u>	<u>C</u>						p <sup>5</sup>	<u>C</u>	<u>C</u>			
Dwelling, multi-family workforce		<u>C<sup>3</sup></u>	<u>C<sup>3</sup></u>	<u>C<sup>3</sup></u>	<u>C<sup>3</sup></u>	<u>C<sup>3</sup></u>	<u>C<sup>3</sup></u>						<u>p<sup>5</sup></u>	<u>C<sup>3</sup></u>	<u>C<sup>3</sup></u>			
Small workforce housing development	<u>C<sup>3</sup></u>																	
Dwelling, single family	P, C <sup>3</sup>	P, C <sup>3</sup>	C <sup>3</sup>	C <sup>3</sup>	S, C <sup>3</sup>	C <sup>3</sup>							p <sup>5</sup>					
Dwelling, two-family	P, C <sup>3</sup>	P, C <sup>3</sup>	C <sup>3</sup>	C <sup>3</sup>	S, C <sup>3</sup>	C <sup>3</sup>							p <sup>5</sup>					
Elderly Housing	P	P	P	P	P	P	<u>C</u>						p <sup>5</sup>	P	P			
Elderly Housing, Affordable	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>							<u>p<sup>5</sup></u>	<u>C</u>	<u>C</u>			
Live-Work Units			<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>p<sup>5</sup></u>					
Manufactured housing	P, C <sup>3</sup>	P, C <sup>3</sup>																
Mixed use residential						P, <u>C<sup>3</sup></u>	P, <u>C<sup>3</sup></u>						p <sup>5</sup>	<u>C<sup>3</sup></u>	<u>C<sup>3</sup></u>			
Mobile homes	P																	
Nursing Home and accessory uses		P	P	P	P		<u>P</u>						p <sup>5</sup>	P	P			

4. Replace Section **2.3.1.7 Accessory Apartments** with new language that allows increased flexibility for homeowners while retaining aesthetic controls. ADU's have been identified as one of the most compatible methods for providing affordable housing within existing neighborhoods. Section **3.4.1.3.F** was also deleted to permit Accessory Dwelling Units in backlots, as well as to remove the limitation to single family houses, opening up the opportunity for Small Workforce Housing Development.
5. Amend Section **2.3.3.3.A.** to remove the zoning districts listed and instead refer to the Use Table.
6. Merge workforce housing and the general standards and procedures for Conditional Use Permits into one location under Section **2.3.3.4** Conditional Use Permit Criteria for Workforce Housing.. The new language includes general workforce housing criteria, followed by criteria specifically applicable to multi-family workforce housing. By eliminating Section 2.3.3.7, the standards calling for a minimum of 75% workforce housing units per development, and a minimum tract size of 20 acres have both been deleted. The new recommendation calls for a minimum of 33% workforce units. All the remaining applicable language within the former Section **2.3.3.7** was incorporated into the new Section **2.3.3.4** Conditional Use Permit Criteria for Workforce Housing.
  - a. Section **2.3.3.7.B** Development Plan was deleted because it repeats the requirements of Site and Subdivision regulations and causes confusion because it implies that an additional site plan or step in the site plan process is required.
  - b. Section **2.3.3.7 C** Density, Design and Dimensional Standards was deleted, and applicable sections reincorporated into Section **2.3.3.4**. This eliminates the requirement for 16 units per multi-family building. Suggested language does not limit workforce multi-family except per the height limits of the district and per life-safety requirements.
7. Amend Section **2.3.3.5 Definitions Specific to this Section** to remove items no longer applicable, and add new uses introduced into the Use Table. Ideally, the definitions would all be located in one place in the ordinance.
8. Replace the language and chart in Section **2.3.3.6** with new language related to the criteria for Small Workforce Housing Developments.
9. Replace the language and chart in Section **2.3.3.7 Standards and Requirements for Multi-family Workforce Housing** with new language related to the criteria for Live-Work Units.
10. Delete Section **2.3.4 Retention of Housing Affordability**. This section was based on model language provided by NH Housing and Finance Authority in 2009 at the time workforce housing ordinances were being developed. Most communities crafted their ordinances without the onerous requirements within this model. New language that is similar to other communities, including Bedford, is provided in a revised Subsection **2.3.3.8**, predicated on the elimination of existing Sections **2.3.3.8** and **2.3.3.9** (with explanations provided later in this document).

11. Eliminate Section **2.3.3.8 Conversion of Previously Approved Unbuilt Elderly Housing Development to Workforce Housing** and all references to this section.
12. Eliminate Section **2.3.3.9 General Requirements of Workforce Units** where the applicable language was incorporated into Section 2.3.3.4.
13. Change Section **2.3.3.12** to Section **2.3.3.9** and amend any references in the ordinance to Section **2.3.3.12** to Section **2.3.3.9**.
14. Amend **2.4.5 D. Conditional Use Permits for the MUC Sub-district** to allow multi-family workforce.
15. Amend Section **3.6 ELDERLY HOUSING:**
  - a. Include assisted living in the elderly housing section.
  - b. Add “small lot elderly” and assisted living to the list requiring conditional use permits
  - c. Delete the open space definition. Open space is defined elsewhere in the ordinance.
  - d. Add the definition of assisted living.
  - e. Delete the requirement of a minimum lot size for elderly to promote smaller neighborhood scale homes.
  - f. Delete the requirement that elderly units be separated by twice the distance of apartment buildings.
  - g. Delete the internal setback requirement to promote the village setting.
  - h. Delete the requirement that elderly housing buffer themselves from other residential or more intense industrial and commercial uses.
  - i. Change the parking requirement for elderly housing to read 1.5 spaces per unit. Fix the discrepancy with the assisted living requirement so that it’s .5 spaces per bed not unit and add one space per each employee at the largest shift.
  - j. Delete the requirement for 16 units maximum per building.
  - k. Delete the requirement for elderly to have two bedroom units. Many older seniors prefer one, which is more affordable.
  - l. Delete the requirement for elderly housing to have more open space than any other use or district.
  - m. Limit the required support services to what seniors need and want. The original list came from the early days of creating housing for people 62 and over, but the provisions drive up the cost of housing for seniors who are not seeking housing with a lot of services.
  - n. Allow more density for senior housing to make it more affordable.
  - o. Allow sites without municipal sewer and water to comply with NHDES standards in establishing density.
  - p. Delete the density standards for Assisted Living in Section **3.7.1**. Allow to be constructed by the same standards as elderly housing.
16. Amend Section **3.10: PARKING** to address the changes made to the elderly housing, and assisted living parking requirements noted above.

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- C. To phase in or control the implementation and development of tracts of land and future subdivisions thereon, at a rate which will be compatible with the orderly and gradual expansion of community services, including but not limited to education, fire protection, road maintenance, waste disposal, police protection and recreation; and
- D. To provide a mechanism to allow for phased development of residential projects to manage the impact on municipal services.

### 1.3.3 Phasing of Developments

---

A phasing plan shall be submitted for Planning Board approval for all residential developments of more than fifteen (15) lots or dwelling units (unless exempted under **§1.3.4**), and at the applicant's option may be submitted for smaller developments. Such plans shall comply with the following phasing requirements:

- A. For development proposed under the provisions of **Section 3.3 Conservation Subdivisions**: twenty five (25) dwelling units per year from the date of final approval;
- B. For development located in the R-III district: Three (3) multi-family buildings, the total number of dwelling units not to exceed forty eight (48) per year from the date of final approval;
  - 1. In the event that the Planning Board grants a conditional use permit to allow more than 16 units per building in the R-III District: such developments shall be permitted two (2) multi-family buildings, the total number of dwelling units not to exceed forty (40) units per year from the date of final approval.
- C. For multi-family development meeting the definition of “workforce housing” as defined by [RSA 674:58](#), and approved by the Planning Board per the procedures outlined in [RSA 674:60](#): ~~Three (3) multi-family buildings, the~~The total number of dwelling units ~~shall not to exceed forty eight (48)~~seventy-two (72) per year from the date of final approval;
  - ~~1. In the event that the Planning Board grants a conditional use permit to allow more than 16 units per building in a multi-family development meeting the definition of “workforce housing” as defined by RSA 674:58, and approved by the Planning Board per the procedures outlined in RSA 674:60: such developments shall be permitted two (2) multi-family buildings, the total number of dwelling units not to exceed forty (40) units per year from the date of final approval.~~
- D. For single family development approved under the requirements of “Inclusionary Housing (**Section 2.3.4**): twenty five (25) dwelling units per year from the date of final approval;
- ~~E. For conversions of previously approved and unbuilt Elderly Housing developments to “workforce housing” as defined by RSA 674:58, and approved by the Planning Board per the procedures outlined in RSA 674:60: The Phasing shall be one of the following:
 
  - ~~1. If the project was approved in Phases as part of the Elderly Housing site plan, the phasing shall be consistent with the approved phasing plan approved by the Planning Board for the Elderly Housing site plan. Each phase in such situation shall mean the number of dwelling units permitted in each year subsequent to final approval of the conversion by the Planning Board.~~
  - ~~2. If the Project was not subject to phasing as part of the approval for Elderly Housing, the appropriate requirements of either **Section 1.3.3(C)** of **1.3.3(D)** shall apply.~~~~
- ~~F.E.~~ For other residential development proposed to be serviced with public water and public sewerage, and proposing no dwelling structures within 200 feet of a street other than one created by that development: twenty (20) dwelling units per year from the date of final approval;
- ~~G.F.~~ For all other residential developments: fifteen (15) dwelling units per year from the date of final approval.



resulting in conforming lots. The subdivision shall be subject to Planning Board approval in accordance with the Subdivision Regulations.

- C. 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: CO, AR-I, R-III, C-IV, POD, C-III, C-I, C-II, IND-I and IND-II, AD."
- D. 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 2.6.3** applies.

## 2.2 USE TABLE

### 2.2.1 Accessory Uses

With the exception of residential district, all uses permitted for each district shall be permitted as accessory uses within that district provided the combination of uses shall meet all other provisions of this Zoning Ordinance.

### 2.2.2 GB District Services Table (Follows Use Table below)

Londonderry Zoning Ordinance Use Table																		
P = Permitted Use C = Requires Conditional Use Permit S = Requires Special Exception																		
														Overlay Districts				
	AR-1	R-III	C-I	C-II	C-III	C-IV	MUC	IND-I	IND-II	GB	PUD	AD	POD - 102 <sup>1</sup>	POD - 28 <sup>1</sup>	CO	AH	AZ	FP
<b>RESIDENTIAL AND AGRICULTURAL</b>																		
Agriculture	P	P									p <sup>5</sup>							
Assisted Living Facilities	<u>C</u>	P	P	P	P		P				p <sup>5</sup>		P	P				
Back Lot Development	C										p <sup>5</sup>			See specific district regs.				
Dwelling, multi-family	<u>C<sup>3</sup></u>	P, <u>C<sup>3</sup></u>	<u>C<sup>3</sup>C</u>	<u>C<sup>3</sup>C</u>	<u>C<sup>3</sup>C</u>	<u>C<sup>3</sup>C</u>	<u>C</u>				p <sup>5</sup>		<u>C</u>	<u>C</u>				
<u>Dwelling, multi-family workforce</u>		<u>C<sup>3</sup></u>	<u>C<sup>3</sup></u>	<u>C<sup>3</sup></u>	<u>C<sup>3</sup></u>	<u>C<sup>3</sup></u>	<u>C<sup>3</sup></u>				<u>P<sup>5</sup></u>		<u>C<sup>3</sup></u>	<u>C<sup>3</sup></u>				
<u>Small workforce housing development</u>	<u>C<sup>3</sup></u>																	
Dwelling, single family	P, C <sup>3</sup>	P, C <sup>3</sup>	C <sup>3</sup>	C <sup>3</sup>	S, C <sup>3</sup>	C <sup>3</sup>					p <sup>5</sup>							
Dwelling, two-family	P, C <sup>3</sup>	P, C <sup>3</sup>	C <sup>3</sup>	C <sup>3</sup>	S, C <sup>3</sup>	C <sup>3</sup>					p <sup>5</sup>							
Elderly Housing	P	P	P	P	P	P	<u>C</u>				p <sup>5</sup>		P	P				
<u>Elderly Housing, Affordable</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>					<u>P<sup>5</sup></u>		<u>C</u>	<u>C</u>				
<u>Live-Work Units</u>			<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P<sup>5</sup></u>							
Manufactured housing	P, C <sup>3</sup>	P, C <sup>3</sup>																
Mixed use residential						P, <u>C<sup>3</sup></u>	P, <u>C<sup>3</sup></u>				p <sup>5</sup>		<u>C<sup>3</sup></u>	<u>C<sup>3</sup></u>				
Mobile homes	P																	
Nursing Home and accessory uses		P	P	P	P		<u>P</u>				p <sup>5</sup>		P	P				

## Londonderry Zoning Ordinance Use Table

**P = Permitted Use C = Requires Conditional Use Permit S = Requires Special Exception**

														Overlay Districts				
	AR-1	R-III	C-I	C-II	C-III	C-IV	MUC	IND-I	IND-II	GB	PUD	AD	POD - 102 <sup>1</sup>	POD - 28 <sup>1</sup>	CO	AH	AZ	FP
Preexisting manufactured housing parks	P																	
Presite Built Housing	P																	
	P																	
<b>CIVIC USES</b>																		
Community center			P	P		C					p <sup>4</sup>							
Cemetery	P																	
Public Facilities	P		P	P		C		P	P	P	p <sup>4</sup>	P						
Public Utilities	P	P	P	P				S	S	S	p <sup>5</sup>	S						
Recreational Facilities, Public	P			P							p <sup>4</sup>		P	P				
Religious Facilities	P		P	P	P	P					p <sup>5</sup>		P	P				
Cultural Uses and Performing Arts							C			P	p <sup>4</sup>							
<b>BUSINESS USES</b>																		
Aeronautical Facilities												P						
Assembly, testing, repair and packing operations up to 250,000 sq. ft.								P	P	P	p <sup>4</sup>							
Assembly, testing, repair and packing operations 250,001 sq. ft. or larger								P	P	C	p <sup>4</sup>							
Bed and Breakfast Homestay	P										p <sup>5</sup>							
Business center development			P	P			P			P	p <sup>4</sup>		P	P				
Conference/Convention Center							C			P	p <sup>4</sup>							
Day Care Center, Adult							C	C			p <sup>4</sup>							
Drive-thru window as an accessory use			P	P			C											
Drive-in establishments			P	P														
Drive-in theatres				P														
GB District Services										(See GB District Services Use Table, <b>Section 2.2.2</b> )								
Financial institution			P	P			P			P	p <sup>4</sup>							
Funeral homes			P	P	P													
Education and Training Facilities							C			P	p <sup>4</sup>							
Excavation, including Temporary and Permanent Manufacturing Plants as an accessory use.	P		P	P	P			P	P			P						
Group Child Care Center					P	C		S	S		p <sup>4</sup>		C	C				
Home Occupation	S										S							
Hotels				P			C			P	p <sup>4</sup>							

## Londonderry Zoning Ordinance Use Table

**P = Permitted Use C = Requires Conditional Use Permit S = Requires Special Exception**

														Overlay Districts				
	AR-1	R-III	C-I	C-II	C-III	C-IV	MUC	IND-I	IND-II	GB	PUD	AD	POD - 102 <sup>1</sup>	POD - 28 <sup>1</sup>	CO	AH	AZ	FP
Manufacturing, Heavy									P	P		P						
Manufacturing, Light up to 250,000 sq. ft.				P				P	P	P	P <sup>4</sup>	P						
Manufacturing, Light 250,001 sq ft or larger				P				P	P	C	P <sup>4</sup>	P						
Membership club			P	P							P <sup>4</sup>							
Motels				P														
Motor Vehicle Maintenance, Major Repair and Painting									P			P						
Motor vehicle rental												P						
Motor Vehicle Station, Limited Service				P		C <sup>2</sup>					P <sup>4</sup>	P						
Recreation, commercial			P	P			P				P <sup>4</sup>		P	P				
Retail sales establishment up to 75,000 sq. ft			P	P		P	P				P <sup>4</sup>		P	P				
Retail sales establishment 75,001 sq. ft. or larger			P	P			C				P <sup>4</sup>							
Outdoor Storage of goods or materials (not to exceed 5-10% of the gross floor area) as an Accessory Use										C								
Professional office			P	P	P	P	P	P	P	P	P <sup>4</sup>	P	P	P				
Rental Car Terminal up to 50,000 sq. ft										P	P <sup>4</sup>							
Rental Car Terminal 50,001 sq. ft. or larger										C	P <sup>4</sup>							
Repair services			P	P		P		P	P		P <sup>4</sup>	P	P	P				
Research or Development Laboratories				P			P	P	P	P	P <sup>4</sup>	P						
Restaurant			P	P		C	P				P <sup>4</sup>	P	P	P				
Restaurant, fast food			P	P			C				P <sup>4</sup>							
Sales of Heavy Equipment or Heavy Trucks as an accessory use								C	C	C								
School, Private					P						P <sup>4</sup>		P	P				
Service establishment			P	P			P	P	P		P <sup>4</sup>	P	P	P				
Sexually oriented businesses			P	P														
Storage, self serve				P				P	P				C	C				
Terminal, Airplane												P						
Terminal, Trucking up to 100,000 sq. ft.									P	P	P <sup>4</sup>	P						
Terminal, Trucking 100,001 sq. ft. or larger									P	C	P <sup>4</sup>	P						

Londonderry Zoning Ordinance Use Table																		
P = Permitted Use C = Requires Conditional Use Permit S = Requires Special Exception																		
														Overlay Districts				
	AR-1	R-III	C-I	C-II	C-III	C-IV	MUC	IND-I	IND-II	GB	PUD	AD	POD - 102 <sup>1</sup>	POD - 28 <sup>1</sup>	CO	AH	AZ	FP
Vehicle Sales Establishment				P														
Warehouses and Storage up to 250,000 sq. ft.				P				P	P	P	P <sup>4</sup>	P	C	C				
Warehouses and Storage 250,001 sq. ft. or larger				P				P	P	C	P <sup>4</sup>	P	C	C				
Wholesale Businesses up to 250,000 sq. ft.				P				P	P	P	P <sup>4</sup>	P						
Wholesale Businesses 250,001 sq. ft. or larger				P				P	P	C	P <sup>4</sup>	P						

1 - Any use permitted in the underlying zoning district, which is not a permitted use in the Performance Overlay District is considered a Conditional Use  
2 - See **Section 2.4.1(B)(4)** for additional dimensional requirements related to fuel dispensers  
3 - See **Section 2.3.4** for specific requirements (workforce housing)  
4 - As part of an approved PUD Master Plan, See **Section 2.8**  
5 - As part of an approved PUD Master Plan (where the underlying zoning is not GB), See **Section 2.8**

GB District Services Use Table		GB
Accessory Uses up to 5,000 sq. ft. - Including but not limited to, retailing, cafeteria, personal services, restaurant or auditorium accessory with and incidental to a principal use		P
Accessory Uses from 5,001 – 20,000 sq. ft.-Including but not limited to, retailing, cafeteria, personal services, restaurant or auditorium accessory with and incidental to a principal use		C
Automotive Repair up to 5,000 sq. ft.		P
Automotive Repair from 5,001 to 10,000 sq. ft.		C
Computer Services up to 5,000 sq. ft.		P
Computer Services from 5,001 to 10,000 sq. ft.		C
Service/Commercial Businesses up to 5,000 sq. ft. (Including restaurants and gas stations)		P
Service/Commercial Businesses from 5,001 to 20,000 sq. ft. (Including restaurants and gas stations)		C
Daycare up to 5,000 sq. ft.		P
Daycare from 5,001 to 10,000 sq. ft.		C
Health Clubs up to 5,000 sq. ft.		P
Health Clubs from 5,001 to 20,000 sq. ft.		C
Personal Service Businesses up to 5,000 sq. ft.		P
Personal Service Businesses from 5,001 to 20,000 sq. ft.		C

## 2.3 RESIDENTIAL DISTRICTS

### 2.3.1 Agricultural-Residential (AR-I)

#### 2.3.1.1 Objectives and Characteristics

The Agricultural-Residential District is designed to permit uses that are compatible with and protective of certain areas that have been and are being developed for agricultural and forestry uses, water quality preservation, residential use, and public use.

#### 2.3.1.4 Livestock

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- A. Agricultural livestock, poultry, and horses will not be permitted except on lots containing two acres or more. All buildings, runs, pens, and kennels (excluding pastures) will be located a minimum of 25 feet from any property line. This lot size and setback requirements also pertain to dog kennels.
- B. At no time shall a public nuisance be created as to sight, sound, smell, or any other action which would interfere with nearby property owner's rights. Exempted from this provision are domestic pets as defined in this ordinance.
- C. Commercial piggeries or mink farms established for the raising, care, and keeping of pigs or minks as business in any district shall not be permitted. The raising of pigs for one's own home consumption shall be permitted, providing that in so doing, a public nuisance is not created and the operation does not offend by reason of the emission of smoke, noise, odors, or fumes.

#### 2.3.1.5 Location of Religious Facilities

---

- A. Religious facilities in residential districts must be on lots of two acres minimum and must have traffic access onto arterial or collector streets.
- B. All buildings and the parking lot associated with a religious facility will be set back a minimum of 20 feet from all adjacent residential lots, in accordance with Section 5.02 of the Site Plan Regulations. The landscaping of this setback buffer zone will be approved by the Planning Board
- C. Prior to construction or occupation, a sewage disposal plan will be approved and signed by the New Hampshire water supply and pollution control commission.
- D. Parking for religious facilities shall be determined by the requirements of **Section 3.10**, Table 1 of this ordinance.

#### 2.3.1.6 Parking Requirements

---

A minimum of two parking spaces per dwelling unit shall be provided in the AR-I district.

#### 2.3.1.7 Accessory ~~apartments~~ Dwellings

---

~~To increase housing alternatives while maintaining neighborhood aesthetics and quality, one accessory apartment within a detached single family dwelling shall be permitted provided the following conditions are met:~~

~~To increase housing alternatives while maintaining neighborhood aesthetics and quality, one accessory dwelling is permitted on any property containing an owner-occupied single-family dwelling, provided the following conditions are met:~~

- ~~A. Accessory Dwellings shall be permitted only on properties containing an owner-occupied single-family dwelling.~~
- ~~B. There shall be not more than one accessory dwelling per lot.~~
- ~~C. An accessory dwelling shall not be considered to be an additional dwelling unit for the purposes of determining minimum lot size (of Section 2.3.1.3) or development density of the property.~~
- ~~D. The owner of a property containing an accessory dwelling shall reside in either the principal or the accessory dwelling.~~
- ~~E. The accessory dwelling shall contain fully self-sufficient living quarters, consisting of adequate sleeping, bathing, and eating accommodations.~~
- ~~F. The accessory dwelling shall not exceed 1,000 gross square feet.~~
- ~~G. The accessory dwelling shall be subsidiary in size and function to the principal dwelling and be consistent with the principal dwelling in appearance, design, colors, and materials.~~
- ~~H. The accessory dwelling may be located within or added to the principal structure, or attached to an accessory structure such as a free-standing garage, or may itself be a free-standing accessory structure.~~

1. If contained within or added to the principal structure, exterior entry to the accessory dwelling shall not face the street as a second door.
  2. If a free-standing structure or attached to a free-standing structure, the accessory dwelling shall be located only in the side or rear yard of the property.
- I. All required setbacks shall be complied with.
  - J. If the accessory dwelling is not on public water and sewer, then well and septic provisions shall comply with New Hampshire Department of Environmental Services regulations.
  - K. There shall be one parking space in the rear or side yard for the accessory dwelling and no additional curb cut.
  - L. The structure and lot shall not be converted to a condominium or any other form of legal ownership distinct from the ownership of the principal single-family dwelling.
  - M. If the property ceases to be owner-occupied for a period exceeding one year, then the use of the accessory dwelling shall be discontinued until owner-occupancy is restored.
- ~~A. Maximum of one (1) accessory apartment per lot.~~
  - ~~B. The property owner must occupy one of the two units.~~
  - ~~C. The exterior appearance and entrances of the dwelling shall be consistent with a single-family residence.~~
  - ~~D. Only one (1) bedroom is permitted in the accessory apartment and to qualify as an accessory apartment under this section, the apartment may not exceed 750 Sq. Ft. of floor space.~~
  - ~~E. Where municipal sewer is not provided, the total number of bedrooms shall not exceed the capacity of the septic system~~
  - ~~F. Off-street parking shall be provided for at least four (4) vehicles. Garage and "piggy-back" parking is encouraged.~~
  - ~~G. The structure and lot shall not be converted to a condominium or any other form of legal ownership distinct from the ownership of the existing single-family dwelling. Accessory apartment use shall be recorded by deed addendum.~~
  - ~~H. The accessory apartment shall be allowed only within an existing building which has been certified for occupancy for at least three (3) calendar years prior to date of application.~~
  - ~~I. No accessory apartment shall be permitted on a lot created as part of a back lot development, per the requirements of **Section 3.4.1.3(G)** of this ordinance.~~

### **2.3.1.8 Bed and Breakfast Homestay**

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- A. Bed and breakfast homestay uses shall be subject to the following regulations.
  1. With the exception of homes or historic barns located within the Town of Londonderry cultural resources survey or listed on the national register of historic places, there shall be no more than four guest rooms
  2. Up to six guest rooms may be allowed for homes or historic barns located within the Town of Londonderry cultural resources survey or listed on the national register of historic places.
  3. The bed and breakfast homestay is subordinate and incidental to the main residential use of the building.
  4. The only meal to be provided guests shall be breakfast, and it shall only be served to guests taking lodging in the facility.
  5. Rooms used for sleeping shall be part of the primary residential structure and shall not have been specifically constructed for rental purposes
  6. No exterior alterations, other than those required by law to ensure safety of the structure shall be made to any building for the purpose of providing a bed and breakfast homestay

Construction shall not deviate from the stated conditions without approval of the modification by the Planning Board.

- C. **Application Procedure** - Applications for conditional use permits (CUP) for increased units per building for multi-family housing in the R-III District shall be made in accordance with the following procedures:
1. It is recommended that all projects requiring a CUP conduct a preliminary meeting with staff prior to review by the Design Review Committee and the Town's Review Consultant. The purpose of the preliminary meetings shall be to provide guidance on the design of the proposed plan.
  2. The applicant will then develop the proposed plan to a point at which the plan is eligible for design review.
  3. The application will then begin Pre-Application Design review, followed by the Conditional Use Permit Review outlined in this section, and in accordance with the other applicable procedures adopted by the Planning Board.
- D. The following criteria must be met in order to increase the maximum number of units in a multi-family building in the R-III District from 16 to not more than 20.
1. The proposed use is consistent with the Objectives and Characteristics of the district, **Section 2.3.2.1**;
  2. Granting of the application is in the public interest;
  3. The property in question is reasonably suited for the larger buildings 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.
  4. The application demonstrates that the 20-unit buildings for which the Conditional Use Permit is sought does not impact the general health, safety, and general welfare of the Town, and is otherwise in compliance will all requirements of the Zoning Ordinance, Site Plan Regulations, and Subdivision Regulations, as applicable to the proposed project.
  5. There exist on the property limitations (steep slopes, wetlands, CO District areas, flood hazard areas, or other natural constraints on the subject parcel) that reduce the buildable area of the parcel such that the parcel is limited to less than 60% of the permitted density allowed by **Section 2.3.2.3(B)(1)** utilizing 16 units per building. Such calculation must be demonstrated to the Planning Board by a NH licensed professional engineer (and other related professionals as applicable, such as certified wetland scientists or soil scientists).

### 2.3.3 Inclusionary Housing

#### 2.3.3.1 Purpose:

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The purpose of this Section is to encourage and provide for the development of workforce housing within Londonderry. It is intended to ensure the continued availability of a diverse supply of home ownership and rental opportunities for persons meeting the definitions established in the State of NH's "Workforce Housing Statutes," [RSA 674:58-61](#). Additionally, in implementing this Section, Londonderry has considered the region's affordable housing need as defined in the Southern NH Planning Commission Housing Needs Assessment.

#### 2.3.3.2 Authority:

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This Section is adopted under the authority of [RSA 674:21](#), and is intended as an "Inclusionary Zoning" provision, as defined in [RSA 674:21\(I\)\(k\)](#) and [674:21\(IV\)\(a\)](#).

#### 2.3.3.3 Applicability

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- A. Development in accordance with the provisions of this Section is permitted by conditional use permit ~~within the following zoning districts~~ as defined in this Zoning Ordinance: ~~AR-I, R-III, and C-IV, and~~ as listed in the Permitted Use Table, **Section 2.2**.

~~1. Conversion of previously approved and unbuilt “Elderly Housing” developments to workforce housing are permitted by conditional use permit in the AR-I, R-III, C-I, C-II, C-III, and C-IV districts, as listed in the Permitted Use Table, Section 2.2. See Section 2.3.3.8 for standards and requirements.~~

B. Any person aggrieved by a Planning Board decision that constitutes a denial of a Conditional Use Permit due to noncompliance with one or more of the provisions of this ordinance may appeal that decision to the Superior Court, as provided for in RSA 677:15. A Planning Board decision on the issuance of a Conditional Use Permit cannot be appealed to the Zoning Board of Adjustment (RSA 676:5 III).

### 2.3.3.4 Conditional Use Permit Criteria for Workforce Housing

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~~The Criteria of Section 1.5.2 shall be utilized by the Planning Board in the evaluation of Conditional Use Permits for Inclusionary Housing projects. Additional criteria for multi-family workforce housing development is found in Section 2.3.3.7, and additional criteria for the conversion of previously approved unbuilt Elderly Housing is found in Section 2.3.3.8. In addition to the Criteria of Section 1.5.2, the following criteria shall be used by the Planning Board in the evaluation of Conditional Use Permits for Inclusionary Housing, including Workforce Housing projects:~~

#### A. General:

- ~~1. The proposed development is fully compliant with all pertinent requirements of this Ordinance.~~
- ~~2. The proposed use is consistent with the Objectives and Characteristics *of the zoning district* and of this Inclusionary Housing Section 2.3.3.4.~~
- ~~3. 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.~~
- ~~4. The application demonstrates that project for which the Conditional Use Permit is sought does not impact the health, safety, and general welfare of the Town, and is otherwise in compliance with all requirements of the Zoning Ordinance, Site Plan Regulations, and Subdivision Regulations, as applicable to the proposed project.~~
- ~~5. The applicant has demonstrated that an alternative design for which dimensional relief is sought better achieves the Objectives and Characteristics of the district, while not diminishing surrounding property values or the ability of nearby parcels to develop in accordance with the Objectives and Characteristics of the district.~~
- ~~6. Workforce housing units must be constructed in proportional relationship to market-rate units in the development.~~
- ~~7. All workforce housing units must be completed and made available for sale or rental before the final 10% of the market-rate units are approved for occupancy within the same development.~~
- ~~8. At least 51% of dwelling units on a development lot in any inclusionary housing development must contain at least 2 bedrooms.~~
- ~~9. 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.~~
- ~~10. The Planning Board may consider a project that would be the conversion of a large single family residential structure into multiple units that is identified as a “historic property” and listed in the Historic Properties Preservation Taskforce Report, on file with the Heritage Commission. Such conversions shall be required to place a historic preservation easement on the historic structure. Any conversion of a historic structure shall also meet all of the other conditional use permit criteria from this section.~~



**B. Multi-Family Workforce Housing:**

1. The project shall be served by municipal sewer and water service from Manchester Water Works, Derry Municipal Water, or Pennichuck Water and be consistent with the Town's Sewer Facilities Master Plan.
2. The project is designed to meet the requirements of RSA 674:59, and provides a minimum of 75% 33% of the units meeting the definition of "workforce housing" under RSA 674:58.
3. All workforce units must be designed in such a way as to be indistinguishable (architecturally) from any "market rate" units included in the development. Architectural design of any multi-family buildings must be reviewed by the Heritage Commission for their recommendations to the Planning Board.
4. Permitted density - the maximum permitted number of dwelling units ("permitted density") allowed in the development lot shall not exceed 10 units per acre.
5. There are no maximum number of dwelling units that may be contained in one building, as long as applicable fire, safety and building codes are adhered to.
6. Open space - no less than the area calculated below shall be retained as unoccupied space free of all buildings, parking and pavement, including street access, drives and walks paved with impervious materials, (but such unoccupied open space may include so-called nature walk areas and the like and other recreational uses approved by the Planning Board.) Open space shall be owned by undivided interests appurtenant to lot ownership. Such open space shall either be maintained in its natural state (except for the walking paths or other uses approved by the Planning Board) or shall have appropriate landscaping of grass, shrubbery, trees, flowers, or suitable ground cover indigenous to the area.
  - a. Total open space shall not be less than forty percent (40%) of the total development lot area
  - b. Open space shall exclude the area within fifteen feet (15') of each building around its entire perimeter.
  - c. Usable open space shall not be less than twenty-five percent (25%) of the total development lot area. "Usable open space" shall not include "unusable land" which is defined as wetlands, excessive slopes (greater than 25%) and land subject to existing utility and drainage easements.
7. Road design - internal roads shall conform to Town standards for roads in new subdivisions as required by the most recent version of the Town's Subdivision Regulations, but may be waived by the Planning Board.
8. Building separation - single family or two family dwellings shall be at least twenty feet (20') from other dwellings. Multi-family dwellings and other buildings shall be at least thirty feet (30') from other dwellings. Buildings may be interconnected by a covered walkway or breeze way for reasons of convenience and shelter from the elements, if such walkway shall not, in the opinion of the Planning Board (after consultation with the fire department) impair access to the buildings by emergency vehicles and equipment.
9. Dimensional requirements:
  - a. Minimum structure setbacks from the perimeter of the development lot shall be as follows: front - 40 feet; side - 35 feet; rear - 30 feet. If the development lot abuts more than one existing and/or proposed external right-of-way, the building setback will be forty (40') feet from each right-of-way.
  - b. The maximum building height shall be flexible, based on recommendations from the Senior Building Official and the Fire Marshall, but no residential structure shall be greater than 4 stories.
  - c. The development lot shall have a minimum frontage of a state highway or Town maintained road of Class V designation or better of at least one hundred feet (100') in the aggregate, which may consist of two (2) fifty foot (50') rights-of-way serving as access to the development lot.
10. Parking

a. A minimum of 2.0 parking spaces per dwelling unit shall be provided for all dwelling units in an inclusionary multi-family development.

b. Parking areas shall be designated in accordance with requirements for parking areas set forth in **Section 3.10** of the Zoning Ordinance (parking).

11. Perimeter buffer - a perimeter buffer to separate and screen incompatible land uses shall surround the development lot except where streets enter the development lot. The buffer shall include a combination of physical space and vertical elements such as plants, berms, fences or walls, as approved by the Board. The width of the buffer area shall vary according to the abutting zoning district as follows:

a. Agricultural-Residential, Commercial, or Industrial: fifty feet (50') where directly abutting, no buffer where highway separates the development lot and a "C" or "I" district.

b. R-III: no buffer.

12. Dimensional Relief by Conditional Use Permit for Multi-Family Workforce Housing

a. The Planning Board may through the granting of a Conditional Use Permit adjust standards of any dimensional requirement for multi-family workforce housing (including but not limited to: setback, density, green space, frontage, roads and driveways, or parking) for projects that are truly supportive of the purpose and objectives of the Inclusionary Housing section as noted above, and where such adjustments would allow the developer to more fully meet these goals and objectives.

b. The conditional use permit shall clearly set forth all conditions of approval and shall clearly list all plans, drawings and other submittals that are part of the approval. Everything shown or otherwise indicated on a plan or submittal that is listed on the conditional use permit shall be considered to be a condition of approval. Construction shall not deviate from the stated conditions without approval of the modification by the Planning Board.

13. Application Procedure - Applications for conditional use permits (CUP) for dimensional relief for multi-family workforce housing shall be submitted as part of the Site Plan application in accordance with the following procedures:

a. It is recommended that all projects requiring a CUP conduct a preliminary meeting with staff prior to review by the Design Review Committee and the Town's Review Consultant. The purpose of the preliminary meetings shall be to provide guidance on the design of the proposed plan.

b. The applicant will then develop the proposed plan to a point at which the plan is eligible for design review.

c. The application will then begin Pre-Application Design review, which will include the Conditional Use Permit Review outlined in this section, and in accordance with the other applicable procedures adopted by the Planning Board.

d. Unless otherwise addressed in this ordinance, all applications shall meet those requirements set forth in the relevant sections of the Subdivision & Site Plan Regulations of the Town of Londonderry.

14. Approval of Applications Requiring a Conditional Use Permit - Prior to issuance of a building permit, the applicant shall acquire a conditional use permit as well as any other necessary Planning Board approvals. A conditional use permit shall be issued only if the development complies with all of the requirements of **Section 2.3.3.4**. The Planning Board may also condition its approval on additional, reasonable conditions necessary to accomplish the objectives of this section or of the most recently adopted Master Plan, Zoning Ordinance, or any **other federal**, state, town resolution, regulation, or law.

15. SECTION WAS REDUNDANT

**2.3.3.5 Definitions Specific to This Section.**

**Workforce Rental Housing** – where the rent plus utilities for the dwelling unit does not exceed 30 percent of the allowed individual household income (60% of the Area Median Income adjusted for a family of 3, as defined by the US Department of Housing and Urban Development as required by RSA 674:58).

**Workforce Owner-Occupied Housing** – where the total cost of mortgage principal and interest, mortgage insurance premiums, property taxes, association fees, and homeowner’s insurance does not exceed 30 percent of the maximum allowed income of the purchaser (100% of the Area Median Income adjusted for a family of 4, as defined by the US Department of Housing and Urban Development as required by RSA 674:58). The calculation of housing costs shall be based on current taxes, a 30-year fixed rate mortgage, a 5 percent down payment, and prevailing mortgage rates within the region.

**Area Median Income (AMI)** – is the median income of the greater region, either the HUD Metropolitan or Non-Metropolitan Fair Market Rent Area to which Londonderry belongs, as is established and updated annually by the United States Department of Housing and Urban Development.

~~**Assets**— As defined as “Net Family Assets” by 24 CFR Part 5, Subpart F, and as amended from time to time.~~

~~**Income**— As defined as “Annual Income” by 24 CFR Part 5, Subpart F, and as amended from time to time.~~

**Market Rate Housing** – Any unit within a development, whether the unit is to be owner or renter occupied, that is intended to be available for sale or occupancy at the prevailing market value for the area similar to comparable real estate transactions.

**Owner-occupied Housing** – Any dwelling unit intended to be conveyed in fee simple, condominium or equity-sharing arrangement such as a community housing land trust and limited equity cooperatives.

**Rental Housing** – Any dwelling unit intended for leasehold occupancy.

~~Small Workforce Housing Development – Workforce housing permitted in residential zones to accommodate structures with up to 4 units on an individual lot, and designed to be compatible with the context of the neighborhood.~~

~~Live-Work Unit - A single unit consisting of both a work space for occupations like commerce, professional services, artisan, or similar, along with a residential component that is occupied by the entrepreneur. The live/work unit shall be the primary dwelling of the occupant and is intended for non-residential zones as applicable.~~

~~**2.3.3.6 Single Family & Duplex Workforce Housing Categories and Incentives**~~ **Small Workforce Housing Developments**

~~A. A Site Plan or subdivision plan that will guarantee a designated percentage of units, reserved as workforce housing, may be approved with an increase in the density of the site or a reduction of the minimum site frontage as is set forth in Table 1. The developer shall specify in the application whether the density bonus or the frontage reduction is the option being sought for the development. These bonuses shall not apply to multi-family workforce housing development, which is governed by the provisions of **Section 2.3.3.7.**~~

Table 1		
	Minimum Set-Aside	Density Bonus or Frontage Reduction <sup>A</sup>
Workforce Owner-occupied Housing	25%	25% Density Bonus or 50’ Frontage Reduction

~~\* At no point shall a frontage reduction reduce a lot’s frontage to less than 50’ total.~~

~~A. Single-family, duplex, triplex, or quadriplex workforce dwellings are permitted in the AR-1 Agricultural and Residential zoning district, according to the following:~~

1. Provisions of Section 2.3.1.3 to the contrary notwithstanding, minimum area of a lot containing 1 to 4 workforce units shall comprise:

- a. 10,890 square feet (1/4 acre) per workforce dwelling unit if the property is served by public water and sewer, or
- b. The minimum area necessary to comply with pertinent standards of the New Hampshire Department of Environmental Services if the property is not serviced by either public water or sewer or both.

- B. A duplex structure containing one market-rate unit and one workforce unit may be developed on a 21,780 square-foot (1/2 acre) lot if served by public water and sewer, or the minimum area necessary to comply with pertinent standards of the New Hampshire Department of Environmental Services if the property is not served by either public water or sewer or both, provided that the workforce dwelling unit shall be similar in exterior appearance and otherwise visually indistinguishable from the market-rate unit.
- C. Minimum lot frontage shall be 75 feet for any lot containing 1 to 4 workforce dwelling units.
- D. Each workforce dwelling unit shall contain at least two bedrooms.
- E. All height and setback dimensional requirements of the AR-1 zoning district shall apply.
- F. A Conditional Use Permit is required for Small Workforce Housing Developments.

### **~~2.3.3.7 Standards and Requirements for Multi-Family Workforce Housing~~ 2.3.3.7 Live-Work Units**

The business component of live/work units are intended for use by entrepreneurs and professionals in occupations including but not limited to : accountants; architects; artists and artisans; attorneys, computer software and multimedia-related professionals; consultants; engineers; fashion, graphic, interior and other designers; hair stylists; insurance, real estate and travel agents; one-on-one instructors; photographers; and for light manufacturing/assembly and similar occupations;

- A. Live/work units are permitted by conditional use permit in the Commercial and Industrial Zones.
- B. In addition to the permitted uses above, the zoning administrator may authorize other uses using reasonable discretion, as long as such other uses are not otherwise precluded by law;
- C. The residential and the commercial space must be occupied by the same tenant, and no portion of the live/work unit may be rented or sold separately;
- D. Residential areas are permitted above the commercial component, to the side or in back of the business component, provided that there is internal access between the residential and commercial space;
- E. The commercial component as designated on the floor plan approved through the conditional use permit shall remain commercial and cannot be converted to residential use;
- F. The residential component as designated on the floor plan approved through the conditional use permit shall remain residential and cannot be converted to commercial use;
- G. The commercial component shall be restricted to the unit and shall not be conducted in the yard, garage or any accessory structure;
- H. Signage intended to promote on-site commercial uses shall be restricted to a single four--square foot signs permanently affixed to the door or wall of the business component;
- I. The live/work unit shall be required to provide parking at least 3 spaces per unit.

A.I.

### **~~B. Conditional Use Permit Criteria for Multi-Family Workforce Housing~~**

- 1. In addition to the criteria from Section 2.3.3.4, the following criteria must be met in order for the Planning Board to grant a Conditional Use Permit for multi-family workforce housing:

- ~~a.—Granting of the application is in the public interest;~~
- ~~b.—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.~~
- ~~c.—The project shall be serviced by municipal sewer and water service from Manchester Water Works, Derry Municipal Water, or Pennichuck Water and be consistent with the Town's Sewer Facilities Master Plan.~~
- ~~d.—The project is designed to meet the requirements of RSA 674:59, and provides a minimum of 75% of the units meeting the definition of "workforce housing" under RSA 674:58.~~
- ~~e.—All workforce units must be designed in such a way as to be indistinguishable (architecturally) from any "market rate" units included in the development. Architectural design of any multi-family buildings must be reviewed by the Heritage Commission for their recommendations to the Planning Board.~~
- ~~f.—The project must be located on a tract of property or properties of at least 20 acres in size. The Planning Board may consider a project smaller than 20 acres if the project proposed would be the conversion of a large single family residential structure into multiple units that is identified as a "historic property" and listed in the Historic Properties Preservation Taskforce Report, on file with the Heritage Commission. Such conversions shall not propose any additional structures on the property and shall be required to place a historic preservation easement on the historic structure. Any conversion of a historic structure shall also meet all of the other conditional use permit criteria from this section.~~
- ~~g.—The application demonstrates that project for which the Conditional Use Permit is sought does not impact the general health, safety, and general welfare of the Town, and is otherwise in compliance will all requirements of the Zoning Ordinance, Site Plan Regulations, and Subdivision Regulations, as applicable to the proposed project.~~

### **C.—Development Plan**

- ~~1.—The applicant shall prepare and submit to the Planning Board for approval a development plan of the tract proposed for development ("development lot"), which locates the proposed types of residential development, utilities, access roads and streets. ("development plan")~~
  - ~~a.—The development plan shall include general, conceptual site and architectural plans sufficiently detailed to show the intended land uses, structures, improvements, and other features necessary to demonstrate compliance with this Section and other applicable provisions of the Zoning Ordinance.~~
  - ~~b.—The applicant may elect to develop the development lot in phases.~~
  - ~~c.—Final approval of development of any portion of the development lot shall require site plan approval according to the Site Plan Regulations of the Planning Board.~~
  - ~~d.—Once development of any portion of the development lot begins, no portion of the development lot may thereafter be developed or used except in conformity with the approved development plan, or an amended development plan approved by the Board.~~

### **D.—Density, Design and Dimensional Standards for Development Lot**

- ~~1.—Permitted density—the maximum permitted number of dwelling units ("permitted density") allowed in the development lot shall be as follows:~~
  - ~~a.—The maximum number of dwelling units permitted on the development lot shall 10 units per acre.~~
  - ~~b.—The maximum number of dwelling units per multi-family building in an inclusionary development shall be sixteen (16).~~

- ~~i. The maximum number of dwelling units in a single building may be increased from sixteen (16) to no more than twenty (20) if the applicant is granted a conditional use permit from the Planning Board, in accordance with **Section 2.3.3.7(D)**.~~
- ~~e. At least 51% of dwelling units on a development lot in an inclusionary development must contain at least 2 bedrooms.~~
- ~~2. *Screening, Landscaping and Glare*—the development plan shall be designed to screen parking lots from streets by building location, grading or screening and to minimize glare on adjoining properties. Glare from any use of land, including site illumination, shall not exceed 0.2 foot candles, measured at ground level, at or beyond the perimeter of the development lot. Lighting fixtures shall be designed for downward casting of light. Major topographic changes or removal of existing trees shall be avoided wherever possible, and water, wetlands and other scenic views shall be preserved wherever possible.~~
- ~~3. *Open space*—no less than the area calculated below shall be retained as unoccupied space free of all buildings, parking and pavement, including street access, drives and walks paved with impervious materials, (but such unoccupied open space may include so-called nature walk areas and the like and other recreational uses approved by the Planning Board.) Open space shall be owned by undivided interests appurtenant to lot ownership. Such open space shall either be maintained in its natural state (except for the walking paths or other uses approved by the Planning Board) or shall have appropriate landscaping of grass, shrubbery, trees, flowers, or suitable ground cover indigenous to the area.~~
  - ~~a. Total open space shall not be less than forty percent (40%) of the total development lot area~~
  - ~~b. Open space shall exclude the area within fifteen feet (15') of each building around its entire perimeter.~~
  - ~~c. Usable open space shall not be less than twenty-five percent (25%) of the total development lot area. "Usable open space" shall not include "unusable land" which is defined as wetlands, excessive slopes (greater than 25%) and land subject to existing utility and drainage easements.~~
- ~~4. *Road design*—internal roads shall conform to Town standards for roads in new subdivisions as required by the most recent version of the Town's Subdivision Regulations.~~
- ~~5. *Building separation*—single family or two family dwellings shall be at least twenty feet (20') from other dwellings. Multi family dwellings and other buildings shall be at least thirty feet (30') from other dwellings. Up to three (3) buildings may be interconnected by a covered walkway or breeze way for reasons of convenience and shelter from the elements, if such walkway shall not, in the opinion of the Planning Board (after consultation with the fire department) impair access to the buildings by emergency vehicles and equipment.~~
- ~~6. *Dimensional requirements*~~
  - ~~a. Minimum structure setbacks from the perimeter of the development lot shall be as follows: front—40 feet; side—35 feet; rear—30 feet. If the development lot abuts more than one existing and/or proposed external right-of-way, the building setback will be forty (40') feet from each right-of-way.~~
  - ~~b. The maximum building height shall be flexible, based on recommendations from the Senior Building Official and the Fire Marshall, but no residential structure shall be greater than 4 stories.~~
  - ~~c. The development lot shall have a minimum frontage of a state highway or Town maintained road of Class V designation or better of at least one hundred feet (100') in the aggregate, which may consist of two (2) fifty foot (50') rights-of-way serving as access to the development lot.~~
- ~~7. *Parking*~~
  - ~~a. A minimum of 1.75 parking spaces per dwelling unit shall be provided for all dwelling units in an inclusionary multi-family development.~~
  - ~~b. Parking areas shall be designated in accordance with requirements for parking areas set forth in **Section 3.10** of the Zoning Ordinance (parking).~~

8. ~~Perimeter buffer~~— a perimeter buffer to separate and screen incompatible land uses shall surround the development lot except where streets enter the development lot. The buffer shall include a combination of physical space and vertical elements such as plants, berms, fences or walls, as approved by the Board. The width of the buffer area shall vary according to the abutting zoning district as follows:
  - a. ~~Agricultural-Residential, Commercial, or Industrial: fifty feet (50') where directly abutting, no buffer where highway separates the development lot and a "C" or "I" district.~~
  - b. ~~R-III: no buffer.~~

#### ~~E. Dimensional Relief by Conditional Use Permit for Multi-Family Workforce Housing~~

1. ~~The Planning Board may through the granting of a Conditional Use Permit adjust standards of any dimensional requirement for multi-family workforce housing (including but not limited to: setback, density, green space, frontage, or parking) for projects that are truly supportive of the purpose and objectives of the Inclusionary Housing section as noted above, and where such adjustments would allow the developer to more fully meet these goals and objectives.~~
2. ~~The conditional use permit shall clearly set forth all conditions of approval and shall clearly list all plans, drawings and other submittals that are part of the approval. Everything shown or otherwise indicated on a plan or submittal that is listed on the conditional use permit shall be considered to be a condition of approval. Construction shall not deviate from the stated conditions without approval of the modification by the Planning Board.~~
3. ~~Application Procedure~~— Applications for conditional use permits (CUP) for dimensional relief for multi-family workforce housing shall be made in accordance with the following procedures:
  - a. ~~It is recommended that all projects requiring a CUP conduct a preliminary meeting with staff prior to review by the Design Review Committee and the Town's Review Consultant. The purpose of the preliminary meetings shall be to provide guidance on the design of the proposed plan.~~
  - b. ~~The applicant will then develop the proposed plan to a point at which the plan is eligible for design review.~~
  - c. ~~The application will then begin Pre-Application Design review, followed by the Conditional Use Permit Review outlined in this section, and in accordance with the other applicable procedures adopted by the Planning Board.~~
  - d. ~~Unless otherwise addressed in this ordinance, all applications shall meet those requirements set forth in the relevant sections of the Subdivision & Site Plan Regulations of the Town of Londonderry.~~
4. ~~Approval of Applications Requiring a Conditional Use Permit~~— Prior to issuance of a building permit, the applicant shall acquire a conditional use permit as well as any other necessary Planning Board approval. A conditional use permit shall be issued only if the development complies with all of the requirements of **Section 2.3.3.7(5)[c]**. The Planning Board may also condition its approval on additional, reasonable conditions necessary to accomplish the objectives of this section or of the 2004 Master Plan, Zoning Ordinance, or any other federal, state, town resolution, regulation, or law.
5. The following criteria must be satisfied in order for the Planning Board to grant a conditional use permit for dimensional relief in a multi-family workforce housing development. The applicant shall demonstrate that:
  - a. The proposed use is consistent with the Purpose of the Inclusionary Housing Section, **Section 2.3.3.1**;
  - b. Granting of the application is in the public interest;
  - c. 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.

- d. ~~The applicant has demonstrated that the alternative design for which the Conditional Use Permit is sought better achieves the Objectives and Characteristics of the district, while not diminishing surrounding property values or the ability of nearby parcels to develop in accordance with the Objectives and Characteristics of the district; and~~
  - e. ~~The application demonstrates that the alternative design for which the Conditional Use Permit is sought does not impact the general health, safety, and general welfare of the Town, and is otherwise in compliance with all requirements of the Zoning Ordinance, Site Plan Regulations, and Subdivision Regulations, as applicable to the proposed project.~~
6. ~~Additional Criteria to increase the maximum number of units allowed in a multi-family building. In addition to all the criteria listed in **Section 2.3.3.7(E)**, the following additional criteria must be met in order to increase the maximum number of units in a multi-family inclusionary building from 16 to not more than 20:~~
- a. ~~There exist on the property limitations (steep slopes, wetlands, CO District areas, flood hazard areas, or other natural constraints on the subject parcel) that reduce the buildable area of the parcel such that the parcel is limited to less than 50% of the permitted density allowed by **Section 2.3.3.7(C)(1)(a)** utilizing 16 units per building. Such calculation must be demonstrated to the Planning Board by a NH licensed professional engineer (and other related professionals as applicable, such as certified wetland scientists or soil scientists).~~
  - b. ~~The applicant must demonstrate to the Planning Board that the limitation of the number of units per building at 16 per building makes the overall project unfeasible such that the development costs exceed the ability of the applicant recover development costs through rent/sales and any applicable tax credits or subsidies. The applicant must demonstrate this to the Planning Board through an independent Project Cost Estimate which includes the cost of the land, development and construction costs; financing, profit, and sales costs, and any other cost factors.~~

**2.3.3.8 Conversion of Previously Approved Unbuilt Elderly Housing Development to Workforce Housing Administration, Compliance and Monitoring : Assurance of Continued Affordability**

Each workforce housing lot or dwelling unit in a subdivision, conservation subdivision, multi-family residential development, mixed use residential development, or Planned Unit Development shall remain affordable, as defined in RSA 674:58-61, for a period of not less than 40 years. This section shall be administered by the Planning Board.

- A. There shall be a limitation of the resale price of an affordable lot or unit, and, in every transfer of the lot's or unit's ownership, a restriction of its resale to an income eligible-buyer, by means of legally enforceable deed restrictions, restrictive covenants, contractual arrangements established to meet these continued affordability requirements, or other suitable methods specified in a legally enforceable document, applicable to the development and to each affordable lot or dwelling unit, found by the Planning Board to be appropriate and effective for ensuring such affordability, and filed in the Rockingham County Registry of Deeds. In approving such lots or dwelling units, the Planning Board may specify that the applicant provide the means and methods sufficient, in the Planning Board's sole judgment, to guarantee continued affordability throughout this time.
- B. The documents specifying such legally enforceable methods shall provide that the Town of Londonderry has legal right on its own volition, or through its duly designated agent, to monitor and ensure the continuing validity of such covenant or document and to renew or cause renewal of such covenant or document for the purpose of extending indefinitely and for as many times as necessary the continuing affordability of lots or dwelling units as originally approved by the Planning Board.
- C. The applicant, or the applicant's heir, successor, or assign, shall be responsible for the continued rental or sale of affordable



dwelling units consistent with RSA 674:58-61 and aforementioned covenants and documents, and shall submit annual reports to the Planning and Economic Development Department. These reports shall contain all pertinent information relative to sales prices and determination of respective income qualifications of buyers, and gross rents and respective income qualification of tenants as set forth in Section 2.3.3.5.

D. Annual rent increases for workforce housing rental units shall not exceed any increase in Area Median Income as reported by the US Department of Housing and Urban Development and by the New Hampshire Housing Finance Authority.

E. No certificate of occupancy shall be issued for an workforce housing unit without written confirmation of the income eligibility of the tenant or buyer of the workforce housing unit and confirmation of the rent or price of the workforce housing unit as documented by an executed lease or purchase and sale agreement. Information of income eligibility of the renter or buyer shall be provided by and certified by the applicant of the respective certificate of occupancy.

**~~A. Conditional Use Permit Criteria for Conversion of Previously Approved Unbuilt Elderly Housing to Workforce Housing~~**

~~1. In addition to the criteria from Section 2.3.3.4, the following criteria must be met in order for the Planning Board to grant a Conditional Use Permit for a conversion of an unbuilt, previously approved Elderly Housing project into workforce housing:~~

- ~~a. The property must have received a final approval from the Planning Board for development of Elderly Housing, and must not have constructed any dwelling units on the property since receiving approval.~~
- ~~b. The approval for the Elderly Housing development must still be valid. Elderly Housing developments that have expired approvals shall not be eligible for conversion to Workforce Housing.~~
- ~~c. Granting of the application is in the public interest;~~
- ~~d. 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.~~
- ~~e. The project shall be serviced by municipal sewer and water service from Manchester Water Works, Derry Municipal Water, or Pennichuck Water and be consistent with the Town's Sewer Facilities Master Plan.~~
- ~~f. The project is designed to meet the requirements of RSA 674:59, and provides a minimum of 100% of the units meeting the definition of "workforce housing" under RSA 674:58.~~
- ~~g. The application demonstrates that project for which the Conditional Use Permit is sought does not impact the general health, safety, and general welfare of the Town, and is otherwise in compliance with all requirements of the Zoning Ordinance, Site Plan Regulations, and Subdivision Regulations, as applicable to the proposed project.~~

**~~B. Density, Design, and Dimensional Standards~~**

~~1. The Planning Board may allow for design and density changes from the approved Elderly Housing project when a conversion is sought, however under no circumstances shall the density of the project exceed that which is permitted in Section 3.6 (Elderly Housing). The project must meet all other applicable requirements from Section 3.6, except for those relative to occupancy of the units by those considered to be "Elderly."~~

~~2. All conversions from Elderly Housing to Workforce Housing must follow the declaration procedure as outlined in RSA 674:60 and Section 2.3.3.12(A), and must receive both a conditional use permit and site plan approval in order to proceed with conversion of the units.~~

### **2.3.3.9 General Requirements of Workforce Units**

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- ~~A. The dwellings qualifying as workforce housing shall be compatible in architectural style and appearance with the market rate dwellings in the proposed development. The workforce units should be interspersed throughout the overall development.~~
- ~~B. To ensure that the application is completed as permitted, the dwellings qualifying as workforce housing shall be made available for occupancy on approximately the same schedule as a project's market units, except that the certificates of occupancy for the last 10 percent of the market rate units shall be withheld until certificates of occupancy have been issued for all the workforce housing units. A schedule setting forth the phasing of the total number of units in a project under this Section, along with a schedule setting forth the phasing of the required workforce housing units shall be established prior to the issuance of a building permit for any development subject to the provisions of this Section.~~
- ~~C. To ensure that only eligible households purchase/rent the designated workforce housing units, the purchaser/renter of an workforce unit must submit copies of their last three years' federal income tax returns and written certification verifying their annual income level, combined with household assets, does not exceed the maximum level as established by this ordinance in **Section 2.3.3.5** of this Section. The tax returns and written certification of income and assets must be submitted to the developer of the housing units, or the developer's agent, prior to the transfer of title. A copy of the tax return and written certification of income and assets must be submitted to all parties charged with administering and monitoring this ordinance, as set forth in this Section and **Section 2.3.4** if applicable, within 30 days following the transfer of title.~~
- ~~D. All applicants under this section must submit the following data to ensure project affordability:~~
- ~~1. Calculation of the number of units provided under this Section and how it relates to its provisions.~~
  - ~~2. Project Cost Estimate including land, development and construction costs; financing, profit, and sales costs; and other cost factors.~~
  - ~~3. Description of each unit's size, type, estimated cost and other relevant data.~~
  - ~~4. Documentation of household eligibility as required in **section 2.3.3.9(C)** of this Section.~~
  - ~~5. All agreements established as part of **sections 2.3.3.10** and **2.3.4** as applicable~~
  - ~~6. List of required variances, conditional use permits, and special exceptions including justification of their necessity and effectiveness in contributing to affordability of this Section.~~

### **2.3.3.10 Assurance of Continued Affordability**

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~~In order to qualify as workforce housing under this Section, the developer must make a binding commitment that the workforce housing units will remain affordable for a period of 40 years. This shall be enforced through a deed restriction; restrictive covenant; or a contractual arrangement through a local, state or federal housing authority or other housing trust or agency. For the 40-year term, the deed restriction, restrictive covenant, or contractual arrangement established to meet this criterion must make the following continued affordability commitments:~~

- ~~A. Workforce housing units offered for sale shall comply with **Section 2.3.4, Retention of Housing Affordability**.~~
- ~~B. Workforce housing rental units shall limit annual rent increases to the percentage increase in the area median income.~~
- ~~C. Deed restrictions, restrictive covenants, or contractual arrangements related to dwelling units established under this Section must be documented on all plans filed with the Planning Board and the Rockingham County Registry of Deeds.~~

### ~~2.3.3.11 Administration, Compliance and Monitoring~~

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- ~~A. This Section shall be administered by the Planning Board. Applications for the provisions provided under this Section shall be made to the planning board and shall be part of the submission of an application for site plan or subdivision plan approval.~~
- ~~B. No certificate of occupancy shall be issued for an workforce housing unit without written confirmation of the income eligibility of the tenant or buyer of the workforce housing unit and confirmation of the rent or price of the workforce housing unit as documented by an executed lease or purchase and sale agreement.~~
- ~~C. On going responsibility for monitoring the compliance with resale and rental restrictions on workforce units shall be the responsibility of the Planning Board or its designee.~~
- ~~D. The owner of a project containing workforce units for rent shall prepare an annual report, due on December 31 each year, certifying that the gross rents of workforce units and the household income of tenants of workforce units have been maintained in accordance this Section. Such reports shall be submitted to the Community Development Department or their designee and shall list the contract rent and occupant household incomes of all workforce housing units for the calendar year.~~

### **2.3.3.12-9 Statutory Procedures for Applications and Appeals**

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- A. Any person who applies for a workforce housing development under this ordinance shall file a written statement of such intent as part of the application. The failure to file such a statement shall constitute a waiver of the applicant's rights under RSA 674:61, but shall not preclude an appeal under other applicable laws. In any appeal where the applicant has failed to file the statement required by this paragraph, the applicant shall not be entitled to a judgment on appeal that allows construction of the proposed development, or otherwise permits the proposed workforce housing development to proceed despite its nonconformance with the municipality's ordinances or regulations.
- B. If the Planning Board approves an application to develop workforce housing subject to conditions or restrictions, it shall notify the applicant in writing of such conditions and restrictions and give the applicant an opportunity to establish the cost of complying with the conditions and restrictions and the effect of compliance on the economic viability of the proposed development. The board's notice to the applicant of the conditions and restrictions shall constitute a conditional approval solely for the purpose of complying with the requirements of RSA 676:4, I(c)(1). It shall not constitute a final decision for any other purpose, including the commencement of any applicable appeal period.
- C. Upon receiving notice of conditions and restrictions as stated in **Section 2.3.3.129(B)**, the applicant may submit evidence to establish the cost of complying with the conditions and restrictions and the effect on economic viability within the period directed by the Planning Board, which shall not be less than 30 days.
  - 1. Upon receipt of such evidence from the applicant, the Planning Board shall allow the applicant to review the evidence at the board's next meeting for which 10 days' notice can be given, and shall give written notice of the meeting to the applicant at least 10 days in advance. At such meeting, the board may also receive and consider evidence from other sources.
  - 2. The board may affirm, alter, or rescind any or all of the conditions or restrictions of approval after such meeting.
  - 3. Subject to **Section 2.3.3.129(C)(4)**, the Planning Board shall not issue its final decision on the application before such meeting, unless the applicant fails to submit the required evidence within the period designated by the Board, in which case it may issue its final decision any time after the expiration of the period.
  - 4. If an applicant notifies the Planning Board in writing at any time that the applicant accepts the conditions and restrictions of approval, the Board may issue its final decision without further action.

## 2.3.4 Retention of Housing Affordability

### 2.3.4.1 Authority and Purpose

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A.—**Authority:** This ordinance is adopted as an “innovative land use control” pursuant to RSA 674:21.

B.—**Purpose:** The purpose of this ordinance is to provide a means by which Londonderry may promote the long-term affordability of housing units (intended for ownership and not rental or lease) built as part of a development approved by the Planning Board under the terms of the Londonderry’s Inclusionary Housing provisions. It is intended to ensure that the units remain affordable to households of low and moderate income, while also facilitating homeowners’ capacity to benefit from property value appreciation. It creates a lien interest in the property held by the Town, enforceable by the Town as a mortgage.

### 2.3.4.2 General Provisions

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A.—**Definitions.** For purposes of this section:

- 1.—“Workforce (or “Affordable”) Housing Unit” means a residential dwelling unit intended to be affordable to persons of low or moderate incomes, which an applicant agrees to produce as a condition of approval of an “inclusionary” housing development as described in **Section 2.3.3** of this Ordinance. More particularly a “Workforce Housing Unit” means the following, as determined by the Planning Board at the time a particular development is granted approval by the Board: A unit of housing which—in addition to any other specific conditions of approval imposed by the Planning Board at the time of approval—is required to be administered in accord with the general provisions as set forth herein; which is subject to the procedures set forth in **Section 2.3.4.3** below at the time of its initial conveyance; and which is conveyed subject to a contingent subsidy lien and covenants in favor of the Municipality, as set forth in **2.3.4.4** below.
- 2.—The “Developer” means the person or entity which applies for and receives Planning Board approval for an “inclusionary” housing project as set forth in **Section 2.3.3** of this Ordinance, any person or entity to which rights to construct such a project under such an approval have been conveyed, or any person or party acting as contractor or agent for such a party, or who otherwise performs acts in furtherance of constructing or implementing the approval, or fulfilling any conditions thereof.
- 3.—“Housing Cost” means the estimated monthly cost to an Owner of a Workforce Housing Unit, including mortgage principal and interest, property taxes (municipal, school, county, and state), homeowner’s insurance, mortgage insurance, and any applicable homeowner’s association fees. Interest calculations shall be based upon the prevailing market interest rate at the time of conveyance for a 30-year fixed-rate conventional mortgage. Schedules used to determine Housing Cost may be adopted and revised as needed by the Planning Board.
- 4.—The “Municipality” means the Town of Londonderry; provided that, however, and except where responsibilities are specifically assigned herein or where statute creates a non-delegable responsibility, the tasks and functions required herein to be performed by the Municipality shall be performed by the Town Council or its designee, or may be delegated in whole or in part by vote of the Town Council to a third-party designee such as a nonprofit organization or quasi-governmental agency, subject to the supervision of the Town Council or its designee.
- 5.—The “Owner” shall mean the person(s) who initially separately purchases and occupies the completed Workforce Housing Unit, under the procedures set forth in **Section 2.3.4.3** below, as well as any person(s) who subsequently purchases the unit under the procedures required under **Section 2.3.4.4** below.
- 6.—The “Fair Market Value” of the Workforce Housing Unit, at the time of the initial or any subsequent conveyance shall be the price which such unit would command at that time in an arm’s-length transaction on the open market if the unit were not subject to any of the restrictions of this Section, and the Owner were to purchase the property in fee simple absolute.

- ~~7. "First Mortgage" means a recorded mortgage which is senior to any other mortgages or liens against the Workforce Housing Unit (other than the lien for real estate taxes and homeowner assessments, if any), and which is used to secure a loan to an eligible buyer to purchase the unit.~~
- ~~8. "Qualified Purchaser" means a purchaser who has been certified by the Municipality as meeting income standards to purchase a Workforce Housing Unit. It also includes a non-profit organization, the primary purpose of which is to provide or to facilitate the acquisition of housing that is affordable to low and moderate income households.~~
- ~~9. "Area Median Income" means Area Median Income ("AMI") for a family of four as established and updated periodically by the U.S. Dept. of Housing and Urban Development for the Fair Market Rent Area where the Municipality is located.~~

~~B. The Planning Board shall, as a condition of approval, make an initial determination of the following with respect to all included Workforce Housing Units which, unless modified pursuant to **Section 2.3.4.3(C)** below, shall serve as the basis for conveyance by the Developer:~~

- ~~1. An estimated projected Fair Market Value for the Workforce Housing Units to be constructed by the Developer, using Developer projections or such other available information as the Planning Board may require. Construction details shall be provided in sufficient detail to enable a reasonable projection of such Value, and compliance with such details shall be deemed a condition of approval.~~
- ~~2. An initial target income level for the initial conveyance of the Workforce Housing Units, which shall not be greater than 100% of the Area Median Income ("AMI").~~
- ~~3. A corresponding initial selling price for each Workforce Housing Unit, which shall be set at a level that is projected to require a Housing Cost no greater than 30% of the initial target income determined in **Section 2.3.4.2(B)(2)** above.~~
- ~~4. A corresponding projected initial subsidy for each Workforce Housing Unit, which shall be the difference between the estimated projected Fair Market Value and the initial selling price. The projected initial subsidy shall be between 15% and 33% of the estimated projected Fair Market Value of the unit, inclusive.~~

~~C. Except as expressly set forth in this Section, in the conditions of Development approval by the Planning Board, or in a lien and covenant document recorded pursuant to **Section 2.3.4.3** below, an Owner shall have the same rights and privileges with respect to the Affordable Housing Unit as would any person who owned the unit in fee simple absolute, including but not limited to the right of quiet enjoyment, the right to make improvements, and the right to convey a First Mortgage interest, as detailed below.~~

### **2.3.4.3 Procedures at Time of Initial Conveyance**

~~A Workforce Housing Unit shall not be separately conveyed, or initially occupied, except in accordance with the following procedures:~~

- ~~A. During construction and upon completion of construction, the Municipality shall inspect the unit to confirm that all applicable codes, ordinances, conditions of approval (including construction details presented at the time of approval) and all other legal requirements have been met.~~
- ~~B. Upon successful inspection, the Municipality at the Developer's expense shall cause an independent appraisal to be performed to determine the Fair Market Value of the unit.~~
- ~~C. The initial selling price shall be as set by the Planning Board at the time of plan approval under **Section 2.3.4.2(B)**; provided, however, that under unusual circumstances the Developer may petition the Planning Board, which may for good cause and following a hearing for which reasonable notice is provided to the Developer and such others as the Planning Board may require, amend the initial selling price, the projected initial subsidy, and/or the initial target income level.~~
- ~~D. The Municipality or its agent shall be responsible for certifying potential purchasers as meeting the relevant target income requirements and eligible to purchase the unit and for ranking Qualified Purchasers. Any potential buyer identified by the Developer or its agent must be referred to the Municipality. If, after the~~

~~impartial application of objective criteria for priority eligibility have been applied to all persons wishing to purchase the unit, there exists more than one top priority income-eligible purchaser ready, willing, and able to execute a purchase and sales agreement at the initial selling price, then the final choice of purchasers shall lie with the Developer.~~

- ~~E.—The Town Council shall from time to time establish rules and procedures for determining income-eligibility and priority for ranking Qualified Purchasers, such rules and procedures to be consistent with U.S. Dept. of Housing & Urban Development Program Requirements at 24 CFR Part 5, Subpart F. There shall be no requirement for continuing Owner income-eligibility, and no Owner shall, subsequent to purchase, be deemed in violation of this Section or of the Subsidy Lien and Restrictive Covenant for lack of income-eligibility, unless false or fraudulent information is found to have been provided by said Owner at the time of initial eligibility determination.~~
- ~~F.—The Developer shall not convey, or agree to convey, the Workforce Housing Unit for a total consideration any higher than the initial selling price as set by the Planning Board. The Developer shall not convey, or agree to convey, the unit except to the top priority Qualified Purchaser, or second priority Qualified Purchaser if the top priority purchaser is unable to complete the sale of the property; provided, however, that if the Municipality fails to identify a Qualified Purchaser, or if the Developer, after exercising a good faith effort, fails to produce a purchaser who is subsequently certified by the Municipality as a Qualified Purchaser and who is ready, willing and able to execute a purchase and sales agreement at the initial selling price within 120 days after the Municipality grants a Certificate of Occupancy in **Section 2.3.4.3(A)** above, the Developer may convey the unit to any purchaser of the Developer's choosing; nevertheless such conveyance shall remain subject to the initial selling price, as set by the Board, and the recording of a Subsidy Lien and Restrictive Covenant, as set forth below. The Developer shall not use these provisions to avoid selling the unit to any Qualified Purchaser, including one identified by the Municipality.~~
- ~~G.—The initial Owner shall, at the time of closing, execute and convey to the Municipality a covenant document, to be called a “Subsidy Lien and Restrictive Covenant”, which shall be recorded in the Rockingham County Registry of Deeds together with the Owner's deed. This document shall contain the initial value of the Municipality's subsidy lien, and all the elements required under **Section 2.3.4.4** below.~~
- ~~H.—The initial value amount of the Municipality's subsidy lien shall be the difference between the appraised value reached under **Section 2.3.4.3(B)** above, and the unit's initial selling price. The burden of the creation of the subsidy shall fall upon the Developer as a condition of approval.~~
- ~~I.—In addition, the Developer shall, at the time of the closing, pay to the Municipality an administrative fee for each unit, which shall be used by the Municipality to fund the administration of the unit under this Subsection, including appraisals, drafting of documents, costs incurred for program administration by an independent agent of the Municipality, and other expenses relating to the Municipality's subsidy lien. The amount of the administrative fee shall be two percent (2%), or as otherwise determined by the Town Council, of the unit's initial selling price, provided however that the Town Council may if warranted, pursuant to RSA 41:9-a, prospectively alter the rate of the fee to more accurately reflect actual administrative costs. The fee shall be accounted for in the same manner as an impact fee, as provided in RSA 674:21, V(c).~~
- ~~J.—Notwithstanding the foregoing, the initial selling price, the projected initial subsidy, and/or the initial target income as conditions of approval may be reviewed and recalculated by the Planning Board as needed between the date of approval and conveyance by the Developer, for the purposes of ensuring that the objectives of this ordinance are met. Amendment of any such condition shall only be made following a hearing for which reasonable notice is provided to the Developer and such others as the Planning Board may require.~~

#### **2.3.4.4 Subsidy Lien and Restrictive Covenant**

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~~The “Subsidy Lien and Restrictive Covenant” required under **2.3.4.3(G)** above shall set forth the initial value amount of the subsidy lien as determined under **2.3.4.3(H)** above, shall incorporate all of the requirements for subsequent conveyances of the Workforce Housing Unit as set forth in **Sections 2.3.4.5** through **2.3.4.7** below, shall provide that any and all of such requirements shall be subject to enforcement pursuant to **2.3.4.9** below, and shall, in addition, incorporate the following conditions and restrictions:~~

- ~~A. The unit shall be the primary residence of the Owner, and shall be occupied by the Owner.~~
- ~~B. The unit shall at all times be maintained in conformity with all applicable building or housing codes, land use ordinances or conditions of approval, and any other applicable provisions of federal, state, or local law. The Owner shall immediately notify the Municipality of any existing or anticipated violation of any such requirement, or of any provision of the Subsidy Lien and Restrictive Covenant.~~
- ~~C. The Owner shall not, without the prior written consent of the Municipality, convey any mortgage or other lien interest in the unit, other than a First Mortgage interest. The Municipality's Subsidy Lien interest shall generally be deemed the equivalent of a second mortgage interest subordinate to any such First Mortgage, and shall entitle the Municipality to the right to notice as a lienholder for all purposes, including foreclosure notice under RSA 479:25. The Municipality may consider an alternative lien position on a case-by-case basis, based on a reasonable assessment of risk and an appraisal of value.~~

#### **~~2.3.4.5 Subsequent Conveyances of the Unit~~**

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~~Except in the cases of purchase of a unit by the Municipality in accordance with **Sections 2.3.4.6** or **2.3.4.7** below, or release or termination of the Subsidy Lien and Restrictive Covenant by the Municipality in accordance with **Section 2.3.4.8** below, no Owner of a Workforce Housing Unit shall convey the unit except in accordance with the following procedures:~~

- ~~A. An Owner may at any time notify the Municipality in writing of an intent to convey the unit. The Municipality shall, as soon as practicable, cause an appraisal to be conducted to arrive at a current Fair Market Value of the unit (including the value of any fixtures or improvements made by the Owner). If the Owner disagrees with or has doubts or questions concerning the accuracy of the appraisal, the Owner may choose to fund a second appraisal, and the current Fair Market Value shall be deemed to be the average of the two appraisals unless otherwise agreed. If the Owner does not convey the unit within one year after providing written notice of intent to convey the unit or otherwise rescinds its notice of intent to dispose of the unit either directly in writing to the Municipality or constructively by either failing to market the property or withdrawing it from the market, the Owner shall reimburse the Municipality for the cost of its appraisal of the unit. Subsequent notices of intent to convey the unit shall require a new appraisal.~~
- ~~B. The Municipality shall set the maximum resale price of the unit by adjusting the recorded initial value amount of its subsidy lien by the change in the US Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) for Boston, Brockton-Nashua, MA-NH-ME-CT for Shelter or a comparable housing cost index should the CPI-U be discontinued, calculating from the time of such recording, then subtracting that adjusted subsidy lien amount from the current Fair Market Value determined under **Section 2.3.4.5(A)** above. The Municipality shall also, based upon that maximum resale price, determine a revised target income level for which the unit would be affordable at such a resale price, such that the unit's Housing Cost would be no greater than 30% of the revised target income. If the revised target income level is greater than 120% of the Area Median Income or if the adjusted subsidy lien amount is not between fifteen and thirty-three percent of the Fair Market Value, the Municipality may retire or modify the subsidy lien in accordance with **Section 2.3.4.8** below. An increase to the subsidy lien will result in a corresponding decrease to the maximum resale price; a decrease to the subsidy lien will result in a corresponding increase to the maximum resale price. In neither case will the Owner's equity be affected, if any.~~
- ~~C. The Municipality or its agent shall be responsible for certifying potential purchasers as meeting the revised target income requirements, in the same manner set forth in **Section 2.3.4.3(D)** above, and for ranking Qualified Purchasers. Any potential buyer identified by the Owner or its agent must be referred to the Municipality. If, after the impartial application of objective criteria for priority eligibility have been applied to all persons wishing to purchase the unit, there exists more than one top priority income-eligible purchaser ready, willing, and able to execute a purchase and sales agreement at the maximum resale price, then the final choice of purchasers shall lie with the current Owner.~~
- ~~D. The Owner shall not convey, or agree to convey, the Workforce Housing Unit for a total consideration any higher than the maximum resale price as determined under **Section 2.3.4.5(B)**. The Owner shall not convey, or agree to convey, the unit except to persons who have been certified as income-eligible under **Section 2.3.4.5(C)**; provided, however, that if the Municipality fails to identify a Qualified Purchaser, or if the Owner,~~

~~after exercising a good faith effort, fails to produce a purchaser who is subsequently certified by the Municipality as a Qualified Purchaser and who is ready, willing, and able to execute a purchase and sales agreement at the maximum resale price within 120 days after the Owner's written notice of intent to convey the unit, the Owner may convey the unit to any purchaser of the Owner's choosing; nevertheless such conveyance shall remain subject to the maximum resale price, to the purchaser income qualification procedures for subsequent conveyances, and to the Subsidy Lien and Restrictive Covenant, and such a conveyance shall permit, but shall not obligate, the Municipality to modify or retire the adjusted subsidy lien in accordance with **Section 2.3.4.8** below. Nothing in the foregoing shall be construed to relieve or limit the Owner's obligation to engage in good faith and energetic efforts to market the unit for purposes of identifying a purchaser who is likely to meet the income qualification standards herein. The Owner shall not use these provisions to avoid selling the unit to any Qualified Purchaser, including one identified by the Municipality.~~

~~E.—At the time of closing, the new Owner shall execute a Subsidy Lien and Restrictive Covenant, substantively similar to that executed by the prior Owner, and the Municipality shall execute a certification of compliance with the conveyance procedures required by the Subsidy Lien and Restrictive Covenant. Both of these documents shall be recorded together with the new Owner's deed. The seller shall also, at the time of the closing, pay to the Municipality an administrative fee of two percent (2%), or as otherwise determined by the Town Council, of the resale price, but such fee shall be subject to adjustment, as set forth in **2.3.4.3(I)** above.~~

~~F.—Notwithstanding **Sections 2.3.4.1** through **2.3.4.5** above, the following types of conveyances are exempt from the Owner Conveyance provisions set forth in this Subsection:~~

- ~~1.—A conveyance to a first mortgagee resulting from foreclosure, or~~
- ~~2.—Any of the following, provided, however, that the unit shall, subsequent to such an exempt conveyance, remain subject to the provisions of the Subsidy Lien and Restrictive Covenant:~~
  - ~~a.—A conveyance resulting from the death of an Owner where the conveyance is to the spouse who is also an Owner.~~
  - ~~b.—A conveyance to the Owner's estate following his or her death for the purpose of administering the estate and distributing the assets thereof during a limited period of time.~~
  - ~~c.—A conveyance resulting from the death of an Owner when the conveyance is to one or more children or to a parent or parents of the deceased Owner.~~
  - ~~d.—A conveyance by an Owner where the spouse of the Owner becomes the co-Owner of the Property.~~
  - ~~e.—A conveyance directly resulting from a legal separation or divorce, by which a co-Owner becomes the sole Owner of the unit.~~

#### **2.3.4.6 Right of First Refusal in Subsequent Conveyances**

~~Upon receipt of a notice of intent to convey a Workforce Housing Unit under **Section 2.3.4.5(A)** above, the Municipality shall have the right to purchase the property at the maximum resale price, as determined according to **Section 2.3.4.5(B)** above. If the Municipality elects to purchase the unit, it shall exercise the purchase right by notifying the Owner, in writing, of such election ("Notice of Exercise of Right") within forty five (45) days of the receipt of the Intent to Convey Notice, or the Right shall expire. Within seven (7) days of the Municipality exercising its purchase right, the Municipality and the Owner shall enter into a purchase and sale contract. The purchase by the Municipality must be completed within forty five (45) days of the Municipality's Notice of Exercise of Right, or the Owner may convey the property as provided in **Section 2.3.4.5** above. The time permitted for the completion of the purchase may be extended by mutual written agreement of the Owner and the Municipality. If the Municipality has in writing waived its purchase right, or if the Purchase Right has expired, or if the Municipality has failed to complete the purchase within forty five (45) days of its Notice of Exercise of Right, the Owner may convey the unit according to **Section 2.3.4.5** above for no more than the maximum resale price as calculated therein.~~



### **2.3.4.7 Municipality's and Owner's Rights in Foreclosure**

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- A.—~~The Owner shall give immediate written notice to the Municipality upon the first to occur:~~
- ~~1.—the date any notice of foreclosure is provided to the Owner or any foreclosure is commenced against the unit under the First Mortgage, or~~
  - ~~2.—the date when the Owner becomes twenty one (21) days late in making a payment on any indebtedness encumbering the unit required to avoid foreclosure of the First Mortgage.~~
- B.—~~At any time within sixty (60) days after receipt of any notice described in **Section 2.3.4.7(A)(1)** above, the Municipality may, but shall not be obligated to, proceed to make any payment required in order to avoid foreclosure or to redeem the unit after a foreclosure. Upon making any such payment, the Municipality shall succeed to all rights of the Owner to the Property and shall assume all of the Owner's rights and obligations under the First Mortgage, subject to the terms of the Subsidy Lien and Restrictive Covenant. In such event the Owner shall forthwith quit the unit and relinquish possession thereof to the Municipality, which shall assume ownership of the property.~~
- C.—~~The Owner may redeem his or her interest in the unit by payment to the Municipality of all sums paid by the Municipality in connection with the First Mortgage and all other sums reasonably expended by the Municipality in relation to the unit, plus eighteen percent (18%) simple interest from each date of expenditure. This redemption may only occur within forty five (45) days after the Municipality succeeds to the Owner's rights to the unit, after which the Municipality may proceed to convey the property to an eligible buyer. Notwithstanding such redemption, the property shall nonetheless remain subject to the Subsidy Lien and Restrictive Covenant.~~
- D.—~~If the Municipality conveys the property it may recover all incidental and consequential costs as are reasonably incurred or estimated to be incurred by the Municipality in connection with its ownership and disposition of the property, including but not limited to insurance, maintenance, repairs or improvements, and marketing expenses. If after conveyance of the property by the Municipality there are excess proceeds above the Municipality's costs, then within 60 days of settlement by the purchaser or purchasers of the property conveyed, the municipality shall reimburse the Owner from whom the Municipality acquired the property in the amount of such excess proceeds.~~

### **2.3.4.8 Retirement or Modification of Subsidy Lien**

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- A.—~~At the time of any transfer of a Workforce Housing Unit, the Municipality may, but is not obligated to, retire or modify the subsidy lien if, in accordance with **Section 2.3.4.2** above, the revised target income level is greater than 120% of the Area Median Income, or if the adjusted subsidy lien amount is not between fifteen and thirty-three percent of the Fair Market Value. Upon making a determination that any such condition has been met, the Municipality may notify the Owner in writing of its intention to retire or modify the subsidy lien. The notice shall indicate the value of the subsidy lien to be retired, or the amount by which the Municipality will reduce or enhance the subsidy lien. Such notification shall be made within 45 days of the Owner's Notice of Intent, as provided under **Section 2.3.4.1** above.~~
- B.—~~Reduction or retirement of the subsidy lien shall be accomplished at the time of closing by payment from the Owner to the Municipality, such payment to be deposited in the Municipality's Affordable Housing Revolving Fund [if one exists at the time]. Enhancement of the subsidy lien shall be accomplished at the time of closing by payment from the Municipality to the Owner. Retirement of the subsidy lien shall be accompanied by release of the restrictive covenant by the Municipality and shall eliminate the need to calculate a maximum resale price, allowing the unit to sell at its Fair Market Value.~~

### **2.3.4.9 Default and Other Enforcement**

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~~Failure of the Owner to comply with the terms of this ordinance, with any condition of Planning Board approval, or with the terms of the recorded Subsidy Lien and Restrictive Covenant shall constitute default, which shall entitle, but which shall not obligate, the Municipality to undertake the following actions:~~

~~A. Foreclosure on the Subsidy Lien, in accordance with RSA 479:19 et seq., provided that the Owner shall have 60 days after receiving written notice of default from the Municipality to fully correct the reasons for default identified by the Municipality in its notice; and~~

~~B. Enforcement under RSA 676:17, 676:17-a, and 676:17-b.~~

### ~~2.3.4.10 Conveyances to Non-Profit Housing Organizations~~

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~~Notwithstanding the foregoing, the Municipality may require that initial or subsequent conveyances of Workforce Housing Units be made to a non-profit organization of the Municipality's choice, where the primary purpose of the organization is to provide or facilitate the acquisition of housing that is affordable to low- and moderate-income households. The Municipality shall release its Right of First Refusal under Section 2.3.4.6 above upon such conveyance, provided that upon subsequent conveyance the organization acquires a similar right of first refusal. The Municipality shall also release its Subsidy Lien and Restrictive Covenant upon conveyance to such an organization. Conveyance to such an organization shall be made at the initial selling price in Section 2.3.4.3(C) or at the maximum resale price in Section 2.3.4.5(B), as appropriate.~~

## 2.4 COMMERCIAL DISTRICTS

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### 2.4.1 Commercial District

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#### A. Objectives and Characteristics

The five commercial sub-districts (C-I, C-II, C-III, C-IV, and MUC) are designed to provide areas for commercial development to include, but not limited to, retail businesses, financial institutions, service oriented businesses, office buildings, recreational facilities, and repair shops.

#### B. Sub-district Uses

##### 1. Commercial I (C-I)

This sub-district is primarily intended to provide for Town-servicing business activities where the establishment of planned business center development shall be encouraged.

a. **Permitted uses:** see use Table Section 2.2 of this Zoning Ordinance.

b. **Prohibited uses:** facilities for the maintenance or repair of machinery, large appliances, and equipment having internal combustion engines are prohibited in this district.

##### 2. Commercial II (C-II)

This sub-district is primarily intended to encourage the development of business areas designed to serve the motoring public.

a. **Permitted uses:** see use Table Section 2.2 of this Zoning Ordinance

##### 3. Commercial III (C-III) - this sub-district is primarily intended for business-professional offices and residential use.

a. **Permitted uses:** see use Table Section 2.2 of this Zoning Ordinance.

##### 4. Commercial IV (C-IV) - this sub-district is primarily intended for neighborhood commercial and office use, limiting the size, scale and expansion of neighborhood commercial uses in order to minimize traffic volumes and congestion, and other adverse impacts on the neighborhoods in which said establishments are located. All uses within the C-IV sub-district shall be subject to the Site Plan Regulations and must have building renderings reviewed by the Heritage Commission for their recommendation on the building design prior to the Planning Board approving any site plan.

a. **Permitted uses:** see use Table Section 2.2 of this Zoning Ordinance.

1. Minimum area to be suitably planted and permanently maintained with grass, ground cover, shrubs and/or trees shall be thirty three (33) percent of the total lot area. Excepting curb/driveways, a “green” area shall enclose the entire lot perimeter as follows: minimum width of “green” areas shall be fifteen (15) feet except that where the area abuts a public right-of-way, such area shall be not less than thirty (30) feet.
2. When a proposed building, parking lot or driveway is less than two hundred (200) feet from a residential zoning district, a buffer zone in accordance with the following is required:
  - a. The buffer zone shall be a minimum of fifty (50) feet wide.
  - b. The buffer zone shall be planted and permanently maintained to diminish the deleterious effect of the commercial activity in accordance with specifications outlined the Site Plan Regulations.

#### **2.4.4 Additional Standards for C-IV Sub-district**

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- A. Building height: no structure in the C-IV sub-district shall be greater than 30 feet in height.
- B. Building footprint: no use in the C-IV sub-district shall have a building footprint greater than 3,500 square feet with the exception of except community centers, and religious facilities
- C. No drive-thru windows are permitted in the C-IV sub-district
- D. Outside storage: no outside storage or display of any kind is permitted within the C-IV sub-district.
- E. Standards for conditional use permits in the C-IV sub-district. In addition to the standards listed in **Section 1.5.2(B)**, the following criteria must be met for the Planning Board to grant a conditional use permit in the C-IV sub-district:
  1. The applicant shall show that the proposed use is needed to serve primarily the convenience commercial needs of the surrounding neighborhood, considering proximity and accessibility of similar uses.
  2. The scale of the proposed structure is consistent with and complimentary to the surrounding land uses in the neighborhood.

#### **2.4.5 General Standards for MUC sub-district:**

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Within the MUC sub-district, the following regulations and controls are required for the development and continued use of the area.

- A. **Minimum setback distances for structures from property line:**
  1. Front setbacks shall be based on the following performance standards:
    - a. Building footprint of 0 – 75,000 square feet: 60 feet
    - b. Building footprint of 75,001+ square feet: 90 feet
      - i. For purposes of this sub-district the front setback shall be measured from the property line at the arterial road. Where a lot has additional “front setbacks” from other local roadways, the front setback from a local roadway shall be 60 feet
    - c. Side setbacks shall be one-half (½) the front setback, but no less than 30 feet
    - d. Rear setbacks shall be one-third (1/3) the front setback, but not less than 30 feet.
- B. **Building Height:** 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.
- C. **Landscaping**

1. Minimum area to be suitably planted and permanently maintained with grass, ground cover, shrubs and/or trees shall be thirty three (33) percent of the total lot area. Excepting curb/driveways, a “green” area shall enclose the entire lot perimeter as follows: minimum width of “green” areas shall be fifteen (15) feet except that where the area abuts a public right-of-way, such area shall be not less than thirty (30) feet.
2. When a proposed building, parking lot or driveway is less than two hundred (200) feet from a residential zoning district, a buffer zone in accordance with the following is required:
  - a. The buffer zone shall be based on the following performance standards:
    - i. Properties with less than 75,000 square feet of commercial structures: 50 feet
    - ii. Properties with greater than 75,001 square feet of commercial structures: 75 feet
  - b. The buffer zone shall be planted and permanently maintained to minimize the visual impact of the commercial activity from residential districts in accordance with specifications outlined the Site Plan Regulations.

#### D. Conditional Use Permits for the MUC Sub-district

1. Uses Permitted by Conditional Use Permit: Some developments (see Use Table, **Section 2.2**) in the MUC sub-district will require a conditional use permit from the Planning Board, in addition to any other necessary subdivision or site plan approvals. The conditional use permit is meant to provide flexibility, minimize adverse impacts, and allow the Board to participate jointly with the applicant in preparing development proposal that is consistent with this ordinance, local regulations, and the most recently adopted Town Master Plan.
2. Dimensional Relief by Conditional Use Permit: The Planning Board may through the granting of a Conditional Use Permit adjust standards of any dimensional requirement of the district (including but not limited to: setback, density, green space, frontage, or parking) for projects that are determined to be consistent with the general vision statements and recommendations from the Londonderry Northwest Small Area Master Plan or the most recently adopted Town Master Plan.
3. The conditional use permit shall clearly set forth all conditions of approval and shall clearly list all plans, drawings and other submittals that are part of the approval. Everything shown or otherwise indicated on a plan or submittal that is listed on the conditional use permit shall be considered to be a condition of approval. Construction shall not deviate from the stated conditions without approval of the modification by the Planning Board.
4. *Application Procedure* - Applications for conditional use permits (CUP) within this sub-district shall be made in accordance with the following procedures:
  - a. It is recommended that all projects requiring a CUP conduct a preliminary meeting with staff prior to review by the Design Review Committee and the Town’s Review Consultant. The purpose of the preliminary meetings shall be to provide guidance on the design of the proposed plan.
  - b. The applicant will then develop the proposed plan to a point at which the plan is eligible for design review.
  - c. The application will then begin Pre-Application Design review, followed by the Conditional Use Permit Review outlined in this section, and in accordance with the other applicable procedures adopted by the Planning Board.
  - d. Unless otherwise addressed in this ordinance, all applications shall meet those requirements set forth in the relevant sections of the Subdivision & Site Plan Regulations of the Town of Londonderry.
5. *Approval of Applications Requiring a Conditional Use Permit* - Prior to issuance of a building permit, the applicant shall acquire a conditional use permit as well as any other necessary Planning Board approval. A conditional use permit shall be issued only if the development complies with all of the requirements of **Section 2.4.5(D)(5)(i)**. In addition, multi-family housing as a proposed development or part of a proposed

mixed-use development is subject to the provisions of Section 2.3.2.4.. Workforce multi-family housing as a proposed development or part of a proposed mixed-use development is subject to the provisions of Section 2.3.3.7. The Planning Board may also condition its approval on additional, reasonable conditions necessary to accomplish the objectives of this section or any other federal/state regulation or law.

- a. The following criteria must be satisfied in order for the Planning Board to grant a conditional use permit in the MUC sub-district. The applicant shall demonstrate that:
  - i. The proposed use is consistent with the general vision statements and recommendations from the Londonderry Northwest Small Area Master Plan or the most recently adopted Town Master Plan;
  - ii. Granting of the application is in the public interest;
  - iii. The property in question is reasonably suited for the use requested.
  - iv. The design of the site represents to the extent practicable a minimization of impacts to natural resources, and maximizes the provision of green space and accommodation of non-vehicular and pedestrian traffic.
- b. In addition to the criteria listed in **Section 2.4.5(D)(5)(i)**, projects which seek a dimensional conditional use permit shall meet the following additional criteria:
  - i. The applicant has demonstrated that the alternative design for which the Conditional Use Permit is sought is not feasible without relief from the strict terms of this ordinance, while not diminishing surrounding property values or the ability of nearby parcels to develop in accordance with their zoning district; and
  - ii. The application demonstrates that the alternative design for which the Conditional Use Permit is sought does not impact the general health, safety, and general welfare of the Town, and is otherwise in compliance will all requirements of the Zoning Ordinance, Site Plan Regulations, and Subdivision Regulations, as applicable to the proposed project.

## 2.5 INDUSTRIAL DISTRICTS

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### 2.5.1 Industrial District

#### 2.5.1.1 Objectives and Characteristics

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The two industrial subdistricts (IND-I and IND-II) are designed to provide areas for industrial development to include, but not limited to, manufacturing, transportation services, warehouse facilities, and wholesale businesses. The industrial district will consist of land areas zoned for industrial use as recorded in the office of the Town clerk.

#### 2.5.1.2 Subdistrict Uses

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- A. **Industrial I (IND-I):** this district is primarily intended to provide for industrial uses suitable for location in areas of close proximity to non-industrial development.
  1. *Permitted uses:* see use Table **Section 2.2** of this Zoning Ordinance.
  2. *Industrial II (IND-II):* this district is primarily a district which allows a more intensive industrial use than IND-I
    - a. **Permitted uses:** see use Table **Section 2.2** of this Zoning Ordinance.

### 2.5.1.3 General Standards

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Within the industrial district and all subdistricts, the following regulations and controls are required for the development and continued use of the area.

- A. **Setbacks** - no building shall be located on a lot nearer to the front, side or rear lot line than the minimum setback set forth below.
1. Minimum setback distances for structures from property line:
    - a. front 30 feet
    - b. side 20 feet
    - c. back 20 feet
    - d. If a property abuts more than one existing and/or proposed right-of-way, the building setback will be 30 feet from each right-of-way. The Planning Board, during site plan review, may allow certain signs, utility systems (including power and communication), or related facilities within the setback areas.
- B. **Minimum lot size** - minimum lot size in all industrial districts are subject to Planning Board approval based on sewage disposal requirements, soil types, topography, vehicular access, intended use and compatibility with adjacent areas but shall be not less than one acre (43,560 sq. Ft.) With at least one hundred fifty (150) feet of frontage on a class v or better road.
- C. **Building height** - except for structures not intended for human occupancy (chimney, water tower, etc.) Height of buildings shall not exceed 50 feet.
- D. **Storage areas**
1. All outdoor storage shall be visually screened from access streets, arterials and adjacent property. Outdoor storage shall be meant to include parking of all company-owned and operated motor vehicles, with the exception of passenger vehicles. No storage shall be permitted between a frontage street and the building line.
  2. Bulk storage of gasoline, chemicals, petroleum products, and flammable materials shall not be permitted except as accessory to a principal use, accessory to a service station, laboratory, production operation, airport service or the servicing of company-owned or leased vehicles.
  3. The Planning Board may allow certain signs, electrical power, communication systems or related facilities within the required setback areas which do not abut public rights-of-way.
  4. A public right-of-way as used in this Section applies to vehicular travelways and includes private rights-of-way intended for public access to two or more enterprises, buildings or lots, unless otherwise specifically approved by the Planning Board.
- E. **Vehicle access** - see regulations listed in **Section 3.10**.
- F. **Parking standards** - see regulations listed in **Section 3.10** and Table 1 of **Section 3.10** to determine the quantity of spaces required for specific uses.
- G. **Loading space standards**
1. No on-street loading or unloading shall be permitted
  2. Off-street loading spaces shall be provided on the same lot as the principal use they are intended to serve. In no case shall an off-street loading space be counted as part of an area to satisfy the off-street parking requirements.
  3. Loading bays shall be at least fourteen (14) feet wide, forty-eight (48) feet long and may be located either within a building or in the open.

### 3.3.7 Road Design Criteria.

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Roads in Conservation Subdivisions shall be designed to the appropriate road design criteria found in the Subdivision Regulations, as most recently amended.

## 3.4 BACK LOT DEVELOPMENT

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### 3.4.1 Back Lot Development

#### 3.4.1.1 Purpose

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The purpose of Back Lot Development is to allow a landowner to develop areas of his/her property without any road frontage in exchange for permanently prohibiting development of roadside areas identified by the community as contributing to Londonderry's character, such as land that is being actively farmed. The purpose is also to protect open space, to maintain a viable contribution to the community's economic base through agricultural employment and gross regional product, and to product roadside land which will preserve the rural historic character of the community. The Planning Board is authorized to utilize a Conditional Use Permit in accordance with the provisions of [RSA 674:21](#), innovative zoning.

The Planning Board finds:

- A. Back lot development is consistent with the Natural Resource Objective 4 of the 1988 Master Plan "To purchase or otherwise protect selected open space areas for community needs."
- B. Back lot development is consistent with the Historic Preservation Objective 2 of the 1988 Master Plan "to encourage the use of easements and covenants to insure that the essential qualities of specific buildings or sites remains intact.
- C. Back lot development is consistent with the Agricultural Goal and Objective of the 1988 Master Plan "To encourage the continued use of land in Town for farming" and "to encourage the preservation of Londonderry's agricultural atmosphere".
- D. Agriculture is an important component of Londonderry's community character.
- E. The retention of stonewalls and open space viewed from our roads enhances the community's rural and agrarian character.
- F. The Londonderry Master Plan 1988, et seq., and the Orchard and Open Space Protection Plan, 1996, shall be used as a guide in determining which properties reflect this character.

#### 3.4.1.2 Definitions

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**Back Lot Development** - The development of up to four (4) single family house lots with reduced development requirements including a narrow connecting strip to a Class V or better street, in exchange for permanently protecting through the use of agricultural preservation restrictions or conservation easements, an area of two acres and 150' of frontage on a Class V or better street, contiguous to each new back lot developed.

**Agricultural Preservation Restriction or Conservation Easement** - For each lot created, the landowner shall place a permanent restriction on a minimum of two (2) acres of roadside agricultural land or open space with at least 150' of frontage per lot. The easement or restriction shall be granted to the Town and/or a non-profit conservation or agricultural organization. The landowner may retain ownership and use of the land, although its use would be limited to agriculture and open space. The Planning Board has the right to add easement language that maintains the rural character of the protected land. For example, best management practices could be proposed for orchard land or regular haying for meadowland. The easements/restrictions must be in a form acceptable to the Planning Board.

**Private Access Agreement or Common Driveway** - A narrow connecting strip extending from the public street (Class V or better) to the boundary of last lot of the back lot development. The common driveway shall be constructed in accordance with the requirements of Section 4.10.D.3.

**Front Lot** - The land abutting a public street (Class V or better) which is placed under a conservation easement or agricultural preservation restriction. The area of the front lot shall be a minimum of two acres with 150' of frontage and contiguous to the back lot.

### **3.4.1.3 General Requirements**

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- A. The use of back lot development shall be subject to approval by the Planning Board under its Conditional Use Permit and shall be subject to approval by the Planning Board under the Londonderry Subdivision Regulations. It is strongly recommended that the applicant schedule a discussion with the Planning Board as early in the process as possible.
- B. In order to grant a Conditional Use Permit, the Planning Board must have found that three of the following conditions apply to the site:
  - 1. The property proposed for Back Lot Development typifies Londonderry's Rural and Agricultural character
  - 2. Existing fields, pastures, orchards and other land in agricultural use with be preserved and maintained.
  - 3. The development will leave unblocked or uninterrupted scenic views and vistas, particularly as seen from public roads, sites deemed worthy of preservation as listed in the Open Space and preservation Plan, 1996, and from Londonderry's Scenic Roads.
  - 4. The project preserves historic and prehistoric sites and their environs in so far as needed to protect the character of the site.
  - 5. The elements of the Back Lot Development (buildings, circulation, front lot, landscaping, etc.) Are arranged so as to protect valuable natural environments such as stream valleys, outstanding vegetation, water bodies or scenic views.
  - 6. The restricted land is reasonably contiguous, coherent and if the tract of land abuts adjacent permanently protected open space, it is connected with it.  
The Planning Board shall consult the list of properties and qualities of properties worthy of preservation generated by our citizens during the Board's 10/24/95 Orchard Preservation and Land Protection Plan citizen participation process. Subsequent amendments to this plan shall be considered as well. Plans presented by the applicant to illustrate the findings above may also be consulted.
- C. The applicant shall place a permanent agricultural preservation restriction or conservation easement over a minimum of two (2) acres of roadside land (to be known as the FRONT LOT) with at least 150' of frontage on a Class V or better street and contiguous to each back lot created.
- D. Setbacks shall be a minimum of fifteen (15) feet from each property line
- E. Minimum back lot area shall not be less than one half (1/2) an acre. In addition, the back lot, together with the contiguous to acre restricted area assigned to it, shall satisfy the total soil carrying capacity as computed using Minimum Lot Size by Soil Type requirements specified in Section 4.03.
- ~~F. Residential uses in a back lot development shall be limited to single family dwellings. No accessory apartments shall be allowed.~~
- ~~G.F.~~ Fifty feet (50') of frontage is required on the common driveway for each back lot created. The area within the common driveway access easement running through the restricted front lot shall not be counted for frontage purposes.
- ~~H.G.~~ All Zoning Regulations of the Town of Londonderry shall apply except as specified here.



### **3.4.1.4 Specific Design Requirements**

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- A. A Subdivision Plan of the entire site proposed for back lot development shall be provided.
- B. The Water Supply and Waste Treatment System for a back lot development shall be designed in accordance with the standards and requirements of the New Hampshire Water Supply and Pollution Control Division and the Town of Londonderry.
- C. **Common driveway construction standards**
  - 1. Common driveway must meet AASHTO criteria for street intersection sight distance.
  - 2. Maximum length of the common driveway shall not exceed twelve hundred (1200) feet
  - 3. The width of the common driveway access easement shall be thirty five (35) feet. Additional width may be required to accommodate slope and drainage easements.
  - 4. Paved travel lane width shall be eighteen feet (18'), with two foot (2') shoulders on each side.
  - 5. If only one (1) back lot is to be served by the driveway, the travel way may be gravel and twelve feet (12') wide.
  - 6. Common driveway to be constructed to Town of Londonderry Subdivision Street requirements.
  - 7. Maximum gradient eight percent (8%)
- D. Two (2) outdoor parking spaces are to be shown on each lot as no parking is allowed on the common driveway.
- E. Turnaround or "T" approved by the Fire Department shall be provided at the end of the common driveway.

### **3.4.1.5 Agricultural Preservation Restrictions and Conservation Easements**

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Agricultural Preservation Restrictions and Conservation Easements as appropriate are to be placed on the front lots and registered at the Rockingham Country Registry of Deeds. Such easements and restrictions are to be in a form acceptable to the Planning Board of the Town of Londonderry. The back lots and the protected front lots shall be shown on the same subdivision plan/plat.

### **3.4.1.6 Home Owners Association**

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Home Owners Association shall be required in a form acceptable to the Planning Board.

- A. Within the deed of each lot will be the right to use of the common driveway or access easement, a shared snow plowing and maintenance agreement and a stipulation that the driveway cannot be offered to the Town for acceptance as a public way.

### **3.4.1.7 The common driveway**

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The common driveway shall be built and the access easement recorded prior to issuance of certificate of occupancy for any dwelling located on a back lot.

## **3.5 MANUFACTURED HOUSING**

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### **3.5.1 Purpose**

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The purpose of this Section is to establish guidelines for the use of mobile homes/house trailers.

### **3.5.2 General Regulations**

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- A. Every house trailer and mobile home hereinafter occupied as a dwelling shall be placed in an established trailer court/park, or on a separate lot in an AR district.

- B. The provisions of this Section shall not apply to the continued use of any house trailer or mobile home now occupied as a dwelling in its present location.
- C. If a house trailer or mobile home now occupied as a dwelling is moved from its present location, the future use of the trailer or mobile home must comply with the above paragraph **3.5.2(A)**.
- D. This Section does not prohibit a person from substituting a new trailer or mobile home for the one now existing in its present location if the square footage of the living area is at least equivalent to the replaced unit.
- E. Mobile homes entering or leaving courts or parks shall be registered by the owner at the Town Assessor's Office.
- F. The maximum number of trailers or mobile homes allowed in any trailer park shall be four (4) per acre unless such trailer will be attached to a Town sewer system in which case a maximum of eight (8) per acre shall be allowed.
- G. The placement or replacement of a mobile home, as may be allowed under the terms of this Ordinance, shall also comply with the provisions of the Floodplain Development Ordinance (**Section 2.6.5**) as it applies to mobile homes within special flood hazard areas.
- H. Mobile homes shall have a minimum of 600 square feet and mobile homes shall be certified that they comply with the mobile home construction and safety standards as adopted by the Department of Housing and Urban Development in 1976. All other manufactured housing shall comply with the Building Code of the Town of Londonderry.

## **3.6 ELDERLY HOUSING**

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### **3.6.1 Objectives And Characteristics**

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The Elderly Housing and Elderly Affordable Housing standards are designed to permit an increased residential density above that allowed in the AR-I and R-III districts and to set criteria that assures that a project for the elderly will address the needs of elderly as opposed to any other residential use.

Any elderly housing development under this Section must be established and maintained in compliance with the Fair Housing Act, as amended, 42 USC Sec. 3601 et seq. The Board may require assurance of compliance with the Act by deed restriction or other instrument as condition of approval. "Such assurance may consist of a written plan submitted by the Developer, which sets forth (1) the regulations under the Fair Housing Act whereby a project may lawfully discriminate in favor of elderly residents, and (2) how the Developer does or proposes to comply with such requirements, including covenants and other deed restrictions and other to-be-recorded agreements."

### **3.6.2 Uses**

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

1. Elderly Housing
2. *Elderly Housing Support Facilities*  
Elderly Housing shall be allowed in any residential or commercial district in the Town of Londonderry, as long as all of the requirements of the "Regulations and Design Criteria" (**Section 3.6.4**), Elderly Housing, can be met.

#### 3. *Assisted Living*

#### **B. Conditional Uses**

1. *Elderly Affordable Housing* – subject to the requirements of **Section 3.6.5**.
- ~~2.~~ *Small Lot Elderly Housing or Assisted Living is permitted.*

### 3.6.3 Definitions

~~**Open Space:** Open Space is that portion of a lot open and unobstructed from its lowest level to the sky. It shall not include land occupied by buildings and structures as well as all roads and drives. Where no separate right-of-way is delineated for private streets, only the pavement areas of the street, curbs and sidewalks are excluded. Walkways integral to the open space areas that are not curbside sidewalks do not count. A minimum of 30% of the required open space shall be useable lands. Minimum areas between dwellings (3.6.4(B)) and the minimum setback between the building and the edge of right-of-way for the internal road system (3.6.4(C)) shall not be counted towards the required 30% useable uplands. Up to 50% of the required open space can be wetlands or water bodies.~~

~~**Useable Uplands:** Land which is not a water body, wetland, or steep slopes above 25%.~~

~~**Assisted Living Facilities:** shall be defined as facilities licensed under RSA 151:2-I(e) for elderly (over 55 years of age) or disabled individuals, which provide onsite services that support independent living for residents, including, at a minimum, communal dining facilities, and may include onsite personal care services, housekeeping and linen service and the supervision of self-administered medications.~~

**Elderly Affordable Rental Housing** - Housing units that are intended for elderly leasehold residential occupancy, solely by those age 62 and over (as provided for in RSA 354-A:15), and that are subsidized and administered by a federal or state governmental entity.

### 3.6.4 Regulations And Design Criteria

- A. ~~Minimum size of tract area for an elderly housing development shall be fifteen (15) acres. This~~The tract shall have a minimum of fifty (50) foot frontage on a Class V road or better and, at the discretion of the Planning Board, a second fifty (50) foot frontage on a Class V road or better may be required for traffic circulation or safety.
- B. ~~Each dwelling shall have a minimum separation from any other building of sixty (60) feet. Minimum building separation of multi-family elderly structures shall be thirty (30) feet.~~ Each single family dwelling shall have a minimum separation from any other building of thirty (30) feet.
- C. ~~Each building shall have a minimum setback of forty (40) feet from the edge of right-of-way of the internal road system.~~
- D. ~~**Buffers**—The Planning Board shall establish the criteria for a Buffer zone around the entire perimeter of the site based on the following:~~
- ~~1.—Topographic features of the site and adjacent studies;~~
  - ~~2.—Use or zoning classification of abutting land;~~
  - ~~3.—Degree of visual barrier provided by proposed buffer:~~
    - ~~a.—In no event shall the buffer zone be less than the following:~~
      - ~~i.—Adjacent zone or use:~~
        - ~~a.—AR-I, R-III, = 30 feet~~
        - ~~b.—C-I, C-II, C-III = 50 feet~~
        - ~~c.—I-I, I-II = 50 feet~~
      - ~~ii.—The criteria for establishing the buffer zone is found in the “Non-Residential Site Plan Review Regulations” and “Subdivision Regulations” of the Town of Londonderry, as amended.~~
- E.C. **Parking** - There shall be 1.2 parking spaces per bedroom in each unit for elderly housing. There shall be .5 parking spaces required for each bed in an assisted living facility, plus one space per employee on the largest

~~shift.~~—The Planning Board shall carefully consider the location of parking, the parking area and the parking area's access to the unit it serves in keeping with its attendant use by the elderly.

~~F.D.~~ **Building Height** - The building height shall not exceed thirty-five (35) feet.

~~G.~~ **Dwelling Units**—The maximum number of dwelling units in a single building shall be sixteen (16) units. The base population shall not exceed an average of two persons per unit for the site. A site specific floor plan shall be part of the approval process and all designs shall reflect full time occupancy of no greater than two residents per unit.

~~1.~~ **Elderly**—The standard unit will be two (2) bedrooms.

~~2.~~ **Elderly Affordable**—The majority of standard units shall be one bedroom units. There may also be two bedroom units.

~~3.~~ The maximum number of dwelling units in a single building may be increased from sixteen (16) to no more than twenty (20) if the applicant is granted a conditional use permit from the Planning Board, in accordance with **Section 3.6.5(B)**.

~~H.E.~~ **Open Space**

~~1.~~ Total open space shall not be less than forty percent (40%) of the total development lot area

~~2.~~ Open space shall exclude the area within fifteen feet (15') of each building around its entire perimeter.

~~3.~~ Usable open space shall not be less than twenty-five percent (25%) of the total development lot area. "Usable open space" shall not include "unusable land" which is defined as wetlands, excessive slopes (greater than 25%) and land subject to existing utility and drainage easements.

~~1.~~ **Elderly**—Open space as defined elsewhere in this section of the zoning ordinance shall constitute no less than seventy (70) percent of the gross tract area of the site.

~~2.~~ **Affordable Elderly**—Open space as defined elsewhere in this section of the zoning ordinance shall constitute no less than fifty (50) percent of the gross tract of the site.

~~Required Support Facility/Service Uses~~—The applicant shall be required to demonstrate the provision of support facilities and/or services specifically designed to meet the physical and social needs of older persons; OR if provision of such facilities and services is not practicable, that the proposed elderly housing is necessary to provide important housing opportunities for older persons. Consideration of support facilities and services shall include, but not be limited to: **Required Facilities** - The applicant shall be required to demonstrate the provision of support facilities and services as appropriate for the scale and location of an elderly housing or assisted living project.

Independent elderly housing - each development shall provide paved sidewalks and pathways, preferably to on site amenities and off-site destinations where proximity allows. Amenities shall include seating areas, courtyards, gardens or other outdoor gathering spaces. There shall also be provisions for regularly accessible public or private transportation services as a condition of approval.

Assisted Living facilities shall provide onsite services that support independent living for residents, including, at a minimum, communal dining facilities, and may include onsite personal care services, housekeeping and linen service and the supervision of self-administered medications.

~~I.~~—

~~1.~~ Religious Facility

~~2.~~ "Neighborhood" market;

~~3.~~ Recreational facilities (i.e., card rooms, swimming pool, meeting room, video room, music room, etc.);

~~4.~~ Postal sub-station;

- ~~5. Medical sub-station (i.e., first aid, pharmacy, circuit health care, etc.)/Emergency and preventative health care services~~
- ~~6. Library;~~
- ~~7. Circuit Veterinary Care.~~
- ~~8. Programs designed to provide a social life for residents~~
- ~~9. Continuing education programs of interest to residents~~
- ~~10. Information and counseling services~~
- ~~11. Homemaker services~~
- ~~12. Services designed to assist residents with the maintenance and upkeep of buildings and grounds~~
- ~~13. An accessible physical environment~~
- ~~14. Congregate dining facilities~~
- ~~15. Transportation to facilitate access to social services~~
- ~~16. Referral services~~

- ~~a. In demonstrating that Support Facilities and/or Services are provided, it is not required that all of the services listed above are being provided.~~
- ~~b. It is intended under this Section that the applicant provide appropriate services & facilities, consistent with NH law which imposes similar requirements.~~
- ~~c. In the Planning Board's deliberations the Board shall give strong consideration to the needs of elderly, not the applicant.~~

~~J. **Site Ownership** - At the time of application, the entire site shall either be under one owner, or documents shall be submitted with application that show that all owners of record have applied to the Planning Board for consolidation, pending approval of the site plan.~~

~~K.F. **Agreements, Restrictions and Provisions** - All agreements, deed restrictions and organizational provisions for methods of management and maintenance of the common land, roads, utilities and support facilities shall be approved by the Planning Board, and shall indicate that occupancy is restricted to persons age 55 or over, in accordance with State and Federal Fair Housing law.~~

~~L.G. **Road Construction** - All roads and drives in a site shall be privately owned and maintained. Street design and construction is subject to the approval of the Planning Board. Easements for emergency access and relief from liability shall be given to the Town in a form acceptable to Town counsel.~~

~~M.H. **Review** - Any proposed elderly housing development shall be subject to the "Non-Residential Site Plan Review Regulations" of the Town of Londonderry, as amended.~~

~~N.I. **Density** - Maximum density shall be determined as follows:~~

~~1. *From Gross Tract Area subtract:*~~

- ~~a. Areas of slopes greater than fifteen (15) percent;~~
- ~~b.a. Wetlands;~~

~~2.1. The ~~resulting calculation shall be called~~ "net tract area" ~~and~~ shall be the basis for density determinations as follows:~~

- ~~a. **Elderly Housing and Assisted Living** - Sites with P.U.C. regulated municipal water and sewer disposal system: No greater than ~~six (6)~~eight (8) dwelling units per acre, except no greater than four (4) units per acre in the AR-1 district.~~

- i. *Elderly Affordable Housing* – Sites with P.U.C. regulated municipal water and sewer Disposal system: No greater than twelve (12) bedrooms per acre, except no greater than six (6) units per acres in the AR-1 District, which can be incorporated as a mix of one and two bedroom units.
- b. **For sites without municipal water and/or sewer: The minimum contiguous area necessary to comply with pertinent standards of the New Hampshire Department of Environmental Services if the property is not serviced by either public water or sewer.** ~~An area or areas shall be set aside in perpetuity and designated for sewerage disposal, its capacity shall be determined for acceptance on leachate on a site specific basis. The density shall be determined by using the State of New Hampshire criteria for flowage for housing for the elderly on a per bedroom basis and dividing that number into the capacity of the site and then multiplied by a safety factor of eighty (80) percent.~~

### 3.6.5 Conditional Use Permits

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#### A. Conditional Use Permits for Affordable Elderly Housing

1. ~~Prior to Planning Board action on any site plan for Affordable Elderly Housing, which requires a Conditional Use Permit, t~~The Board must have already granted grant a the Conditional Use Permit. ~~The Conditional Use Permit may be sought either separately or~~ concurrently with Site Plan approval.
2. The following criteria must be satisfied in order to the Planning Board to grant a Conditional Use Permit for Elderly Affordable Housing. The applicant shall demonstrate that:
  - a. All criteria outlined in **Section 3.6**, as applicable to the application have been met;
  - b. The proposed Affordable Elderly Housing use is consistent with the Objectives and Characteristics of the District, **Section 3.6.1**;
  - c. Granting of the application would meet some public need or convenience;
  - d. Granting of the application is in the public interest;
  - e. The application demonstrated that the proposed Affordable Elderly Housing for which the Conditional Use Permit is sought does not impact the general health, safety, and general welfare of the Town, and provides for a housing need for an elderly population whose income level is not greater than 60% of the median income for Rockingham County.
  - f. Documentation has been provided to insure the long term affordability of the project.
  - g. The property in question is reasonably suited for the use requested, and the design of the site represents to the extent practicable the preservation of natural resources, open space, and does not create a hazard to surface or underground water resources.

#### ~~B. Conditional Use Permits to increase the maximum number of units per building~~

1. ~~The following criteria must be satisfied in order to the Planning Board to grant a Conditional Use Permit to increase the maximum number of units per building from 16 to not more than 20. The applicant shall demonstrate that:~~
  - a. ~~Granting of the application would meet some public need or convenience;~~
  - b. ~~Granting of the application is in the public interest;~~
  - c. ~~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 (either 55+ or 62+, depending on whether the project is standard elderly housing or affordable elderly housing respectively);~~
  - d.a. ~~There exist on the property limitations (steep slopes, wetlands, CO District areas, flood hazard areas, or other natural constraints on the subject parcel) that reduce the buildable area of the parcel such~~

~~that the parcel is limited to less than 60% of the permitted density allowed by Section 3.6.4(N) utilizing 16 units per building. Such calculation must be demonstrated to the Planning Board by a NH licensed professional engineer (and other related professionals as applicable, such as certified wetland scientists or soil scientists).~~

### 3.6.6 Limitation on the Number of Elderly Housing Units

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- A. The Planning Board shall not accept for consideration any proposal which, if approved, would increase the total number of all elderly housing units in Londonderry, existing and proposed, above a number representing the percentage of units greater than the percentage of persons age 55 and older residing in Londonderry as calculated by the most recent US Census. (For example, if the percentage of persons over age 55 in Londonderry is 13%, not more than 13% of the total number of dwelling units in Londonderry may be Elderly Housing).
- B. The Planning Board, may, by Conditional Use Permit, allow for Affordable Elderly Housing to exceed the percentage cap if the proposal meets all of the criteria from **Section 3.6.5(B)** and also provides documentation from the NH Office of Energy & Planning that the percentage of elderly residents residing in Rockingham County has increased more than 2% from the information available for the County from the most recent US Census.

## 3.7 ASSISTED LIVING FACILITIES AND NURSING HOMES

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### 3.7.1 Density

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~~For purposes of this Ordinance “assisted living facilities” and “nursing home facilities” serviced by municipal sewer shall not be subject to density standards of Section 2.3.2.3(B); provided that such a facility shall be subject to the density standards of 2.3.2.3(B)(1)(a) and 2.3.2.3(B)(1)(b) and 2.3.2.3(B)(1)(d) in the event that the facility has been included in an analysis of the “substantial positive tax impact” to obtain an exemption from growth management phasing and permit limitations. For density purposes, two bedrooms shall be equivalent to one dwelling unit, whether or not the facility includes full dwelling units. Assisted Living and Nursing Homes shall be permitted according to the same requirements for elderly housing as provided in Section 3.6.~~

## 3.8 SEXUALLY ORIENTED BUSINESSES

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### 3.8.1 Purpose and Intent

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It is the intent of this Section to establish reasonable and uniform regulations to prevent the concentration of Sexually Oriented Businesses within the Town of Londonderry; and to protect the citizens of the Town of Londonderry from the secondary effects of such Sexually Oriented Businesses and, it is the intent to promote the health, safety, and general welfare of the citizens of the Town of Londonderry; and it is the intent of this Section that the regulations be utilized to prevent problems of blight and deterioration which accompany and are brought about by the concentration of Sexually Oriented Businesses; and the provisions of this article have neither the purpose nor the intent of imposing limitation or restrictions on the contact of any communicative materials, including Sexually Oriented Materials, and it is not the intent nor the effect of this article to restrict or deny access by adults to Sexually Oriented Materials protected by the First Amendment, or to deny access by the distributors and exhibitors of Sexually Oriented Entertainment to their intended market; and neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene material.

### 3.10.10 Minimum Parking and Loading Required:

Off-street parking spaces shall be provided whenever any new use is established or any existing use is enlarged. The quantity of required spaces will be determined as shown in TABLE 2 of this section.

TABLE 2 OFF-STREET PARKING AND LOADING			
USE	UNIT OF MEASUREMENT	SPACES REQUIRED PER UNIT OF MEASUREMENT	
Subject to the requirements of <a href="#">section 3.10.8(A)(6)</a>			
<b>Agricultural and Residential</b>			
	Agriculture	GFA	1 per 1,000 sq. ft.
	Assisted Living Facilities	<del>Resident unit or Bed</del> and employees	0.5 per <del>resident bed plus 1 per unit or bed plus one per</del> employee <a href="#">at the largest shift.</a>
	Back Lot Development	DU and type	2 spaces per DU
	Dwelling, multi-family 1,3	DU	2.5 per DU
	Dwelling, single family 1	DU	2 per DU
	Dwelling, two-family 1	DU	2 per DU
	Dwelling, with accessory apartment 2	DU	2 per DU, (4 total)
	Elderly Housing	DU	<del>2-1.5</del> per DU
	Elderly Housing (Affordable)	DU	1.2 per DU
	Mixed use residential	Various	As mandated per use by percentage
	Nursing Home and accessory uses	Resident unit or bed and employees	0.5 per resident unit or bed plus one per employee
	Planned residential development	DU	2 per DU
<b>Civic Uses</b>			
	Community center	GFA, or seats and persons accommodated	1 space per 200 sq. ft. or 1 per 3 seats or 3 persons the facility is intended to accommodate
	Public Facilities	GFA, or seats and persons accommodated	1 space per 200 sq. ft. or 1 per 3 seats or 3 persons the facility is intended to accommodate
	Recreational Facilities, Public	GFA, or seats and persons accommodated	1 space per 200 sq. ft. or 1 per 3 seats or 3 persons the facility is intended to accommodate
	Religious Facilities	Seats or linear feet of bench space	1 per each 3 seats or 6 linear ft.
	Cultural Uses and Performing Arts	GFA, or seats and persons accommodated	1 space per 200 sq. ft. or 1 per 3 seats or 3 persons the facility is intended to accommodate
<b>Business Uses</b>			
	Aeronautical Facilities	Various	1 per employee on maximum shift, plus 1 per vehicle used in connection with terminal, plus sufficient number of space to accommodate the largest number of vehicles that may be expected at any one time
	Assembly, testing, repair, and packing operations up to 100,000 sq. ft.	GFA or employees	1 per 500 sq. ft. or 1 per employee
	Assembly, testing, repair, and packing operations 100,001 sq. ft. or larger	GFA or employees	1 per 600 sq. ft. or 1 per employee
	Bed and Breakfast Homestay	D.U and guest room	2 per D.U plus 1 per guest room
	Computer Services	GFA	1 per 200 sq. ft. or 1 per employee
	Conference/Convention Center.	GFA, or seats and persons accommodated	1 space per 200 sq. ft. or 1 per 3 seats or 3 persons the facility is intended to accommodate
	Day Care Center, Adult	Employees and attendees	1 per employee plus 1 per 7 attendees at peak attendance plus parking for any associated busses or vans
	Day Care Center, Child	Employees and attendees	1 per employee plus 1 per 8 attendees at peak attendance
	Drive-in establishments	Employees ad vehicles served	2 per employee plus 1 per each vehicle served
	Drive-in theatres	Capacity	1 per vehicle at capacity plus 10%



**TABLE 2  
OFF-STREET PARKING AND LOADING**

USE	UNIT OF MEASUREMENT	SPACES REQUIRED PER UNIT OF MEASUREMENT	
Financial institution		GFA	1 per 300 sq. ft.
Funeral homes		Various	1 per 5 seats in largest chapel, plus 1 per employee, plus 1 per service vehicle
Education and Training Facilities		Faculty, students, & administrators	1 per faculty member, administrator, and employee, plus .5 per student at peak attendance
Excavation, including Temporary and Permanent Manufacturing Plants as an accessory use.		GFA or employees	1 per associated vehicle plus 1 per 600 sq. ft. or 1 per employee
Health Clubs		GFA, or seats and persons accommodated	1 space per 200 sq. ft. or 1 per 3 seats or 3 persons the facility is intended to accommodate
Home Occupation		Variable	Applicant must demonstrate that parking is adequate for the proposed use, in no case less than 2 spaces in addition to those required for the residence
Hotels up to 50,000 sq. ft.		Various	1 per room, plus 1 per 20 rooms (staff), plus 50% normally required for accessory uses
Hotels 50,001 sq. ft. or larger		Various	1 per room, plus 1 per 20 rooms (staff), plus 75% normally required for accessory uses
Manufacturing, Heavy		GFA or employees	1 per 800 sq. ft. or 1 per employee
Manufacturing, Light up to 100,000 sq. ft.		GFA or employees	1 per 600 sq. ft. or 1 per employee
Manufacturing, Light 100,000 sq. ft. or larger		GFA or employees	1 per 800 sq. ft. or 1 per employee
Membership club		GFA, or seats and persons accommodated	1 space per 200 sq. ft. or 1 per 3 seats or 3 persons the facility is intended to accommodate
Motels		Rooms and employees	1 per room plus 1 per employee
Motor Vehicle Maintenance, Major Repair and Painting		GFA and bays	1 per 800 sq. ft. but no less than 3 per service bay
Motor Vehicle Rental		Various	1 per 300 sq. ft indoor sales per office area, plus 1 per 1,500 sq. ft. outdoor storage, plus 4 per service bay
Motor Vehicle Sales		Various	1 per 300 sq. ft indoor sales per office area, plus 1 per 1,500 sq. ft. outdoor storage, plus 4 per service bay
Motor Vehicle Station, Limited Service		Various	1 per 300 sq. ft. of floor area, plus 1 per accessory service bay, plus 1 per employee, plus 1 per vehicle used for the business and kept on premises
Outdoor Storage of goods or materials (not to exceed 5-10% of the gross floor area) as an Accessory Use		Storage area	1 per 1,500 sq. ft. of storage area
Personal Service Businesses up to 3,000 sq. ft.		GFA or chairs	1 per 200 sq. ft. or 2 per chair
Personal Service Businesses 3,001 sq. ft. or larger		GFA or chairs	1 per 300 sq. ft. or 2 per chair
Professional Office up to 50,000 sq. ft.		GFA	1 per 200 sq. ft.
Professional Office 50,001 sq. ft. or larger		GFA	1 per 300 sq. ft.
Recreation, commercial		GFA, or seats and persons accommodated	1 space per 200 sq. ft. or 1 per 3 seats or 3 persons the facility is intended to accommodate
Rental Car Terminal up to 50,000 sq ft.		Various	1 per 300 sq. ft indoor sales per office area, plus 1 per 1,500 sq. ft. outdoor storage, plus 4 per service bay
Rental Car Terminal 50,001 sq ft. or larger		Various	1 per 400 sq. ft indoor sales per office area, plus 1 per 1,500 sq. ft. outdoor storage, plus 4 per service bay
Repair services		GFA	1 per 400 sq. ft.
Research or Testing Laboratories up to 100,000 sq. ft.		GFA	1 per 600 sq. ft.
Research or Testing Laboratories 100,001 sq. ft. or larger		GFA	1 per 800 sq. ft.
Restaurant		Seats and employees	1 per 3 seats plus 1 per employee
Restaurant, fast food		Seats and employees	1 per 4 seats plus 1 per employee
Retail Stores up to 75,000 sq. ft.		GFA	1 per 200 sq. ft.
Retail Stores 75,001 sq. ft. or larger		GFA	1 per 300 sq. ft.
Sales of Heavy Equipment or Heavy Trucks as an accessory use		Lot area	1 per 2,000 sq. ft. of lot area

**TABLE 2  
OFF-STREET PARKING AND LOADING**

USE	UNIT OF MEASUREMENT	SPACES REQUIRED PER UNIT OF MEASUREMENT	
	School, Private, Elementary and Middle	Various	1 per faculty, employee and bus if bus transportation is provided, plus 1 per each 4 seats for assembly areas
	School, Private, High	Various	1 per faculty member, administrator, and employee, plus 1 per bus if bus transportation is provided, plus 1 per each 4 students
	Service establishment	GFA or employees	1 per 300 sq. ft. or 2 per employee
	Sexually oriented businesses	GFA or occupants	1 per 300 sq. ft. or 1 per 2 occupants at building capacity
	Storage, self serve	GFA	1 per 1,200 sq. ft.
	Terminal, Airplane	Various	1 per employee on maximum shift plus 1 per vehicle used in connection with terminal, plus sufficient number of spaces to accommodate the largest number of vehicles that may be expected at any one time
	Terminal, Trucking	Various	1 per 200sq. ft. plus adequate parking and loading spaces for each company vehicle operating from the premises plus 1 per employee
	Warehouse and Storage up to 100,000 sq. ft.	GFA	1 per 1,200 sq. ft.
	Warehouse and Storage 100,001 sq. ft. or larger	GFA	1 per 1,400 sq. ft.
	Wholesale Businesses up to 100,000 sq. ft.	GFA	1 per 800 sq. ft.
	Wholesale Businesses 100,001 sq. ft. or larger	GFA	1 per 1,000 sq. ft.
<p>* Other Uses: Parking and loading requirements shall be calculated for the closest similar use as determined by the Planning Board                      * Refer to section 3.10.8.1.5 for a definition of "employee(s)" as used in this table * GFA = Gross Floor Area * DU = Dwelling Unit(s)  <b>Footnotes:</b>                      Elderly affordable housing is exempt from this requirement. Refer to Section 3.6 for elderly affordable requirements.                      Off-street parking shall be provided for at least four (4) vehicles. Garage and "piggy-back" parking is encouraged.                      In the R-III District, parking spaces may be located offsite (i.e.: off the internal legal lot so long as the offsite parking is located within the development lot) and the parking spaces shall be within four hundred feet (400') of the building they are intended to serve.</p>			

### 3.10.11 Flexibility in Off-Street Parking and Loading Standards:

#### A. Flexibility in Administration Required

- Due to the particularities of any given development, the inflexible application of the parking standards set forth in **Subsection 3.10.10**) may result in a development either with inadequate parking space or parking space far in excess of its needs. The former situation may lead to traffic congestion or parking violations in adjacent streets as well as unauthorized parking in nearby private lots. The latter situation wastes money as well as space that could more desirably be used for valuable development or environmentally useful open space. Therefore, the Planning Board may permit deviations from the presumptive requirements of **Subsection 3.10.10** and may require more parking or allow less parking by granting a conditional use permit meeting the requirements of **section 3.10.11(B)**.

#### B. Conditional Use Permits for Deviations in the Number of Required Off-Street Parking Spaces

- The Planning Board may allow deviations from the parking requirements set forth in **section 3.10.10** by issuance of a conditional use permit when it finds that at least two of the following criteria are met (one of which must be **Section 3.10.11(B)(1)(a)**):
  - Such deviations are consistent with the purpose and intent of **section 3.10.1**
  - The applicant is able to demonstrate through studies of similar uses or similar facilities owned by the same company that the actual parking demand for the property is significantly different from the requirements of **3.10.10**, and can document that there have been no parking shortages at such studied sites.

**HOUSING OPPORTUNITIES IN LONDONDERRY**  
**Appendix**

To: Town of Londonderry, NH, Planning Board  
From: Jonathan Edwards, Arnett Development Group LLC  
Date: February 11, 2015

**Varieties of Workforce Housing—Examples:**

Villages, forming new neighborhoods or extending existing neighborhoods, with diverse types and sizes of dwellings, and thus diverse rental and purchase costs—cottage, duplex, detached accessory, small apartments. 10-15 dwellings/acre



Eaton Row

12 dwellings/acre



Harriett Square Rowhouses

10 dwellings/acre



Battle Road Farm

2-4 dwellings/building; 10 dwellings/acre



Dermott Villas

8 dwellings/acre



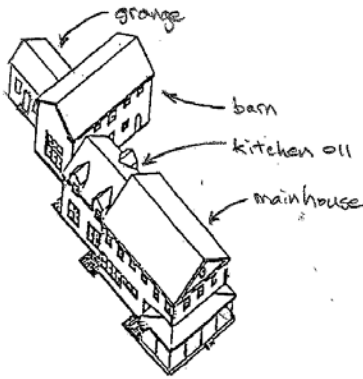
Cobb Hill Co-Housing

5 dwellings/acre



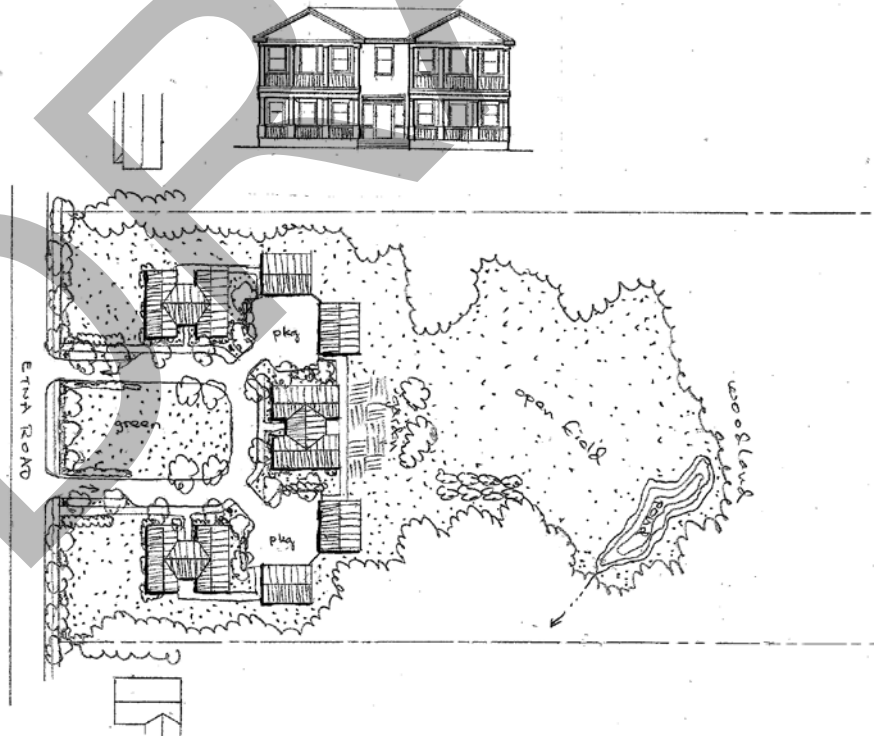
Farmstead:

Echoing an old rural tradition unique to New Hampshire: the main house, followed by a kitchen ell, barn, grange, housing several dwelling units of various sizes and costs; similarly, small structures attached or closely situated to form a coherent group. Density: 8 to 10 dwellings/acre.



Quadriplex Cluster:

Small, house-scale workforce developments in neighborhoods. Example below: new construction of house-scale buildings containing small apartments and common open space. Density 5-8 dwellings per acre.



**New Hampshire Statutory Provisions for Workforce Housing:****RSA 672 Planning and Zoning, General Provisions:**

RSA 672:1, III-e. All citizens of the state benefit from a balanced supply of housing which is affordable to persons and families of low and moderate income. Establishment of housing which is decent, safe, sanitary and affordable to low and moderate income persons and families is in the best interests of each community and the state of New Hampshire, and serves a vital public need. Opportunity for development of such housing shall not be prohibited or unreasonably discouraged by use of municipal planning and zoning powers or by unreasonable interpretation of such powers;

**RSA 674:21 Innovative Land Use Controls. –**

I. Innovative land use controls may include, but are not limited to:

- (a) Timing incentives.
- (b) Phased development.
- (c) Intensity and use incentive.
- (d) Transfer of density and development rights.
- (e) Planned unit development.
- (f) Cluster development.
- (g) Impact zoning.
- (h) Performance standards.
- (i) Flexible and discretionary zoning.
- (j) Environmental characteristics zoning.
- (k) Inclusionary zoning.
- (l) Accessory dwelling unit standards.
- (m) Impact fees.
- (n) Village plan alternative subdivision.

IV(a) "Inclusionary zoning" means land use control regulations which provide a voluntary incentive or benefit to a property owner in order to induce the property owner to produce housing units which are affordable to persons or families of low and moderate income. Inclusionary zoning includes, but is not limited to, density bonuses, growth control exemptions, and a streamlined application process.

**RSA 674:59 Workforce Housing Opportunities. –**

I. In every municipality that exercises the power to adopt land use ordinances and regulations, such ordinances and regulations shall provide reasonable and realistic opportunities for the development of workforce housing, including rental multi-family housing. In order to provide such opportunities, lot size and overall density requirements for workforce housing shall be reasonable. A municipality that adopts land use ordinances and regulations shall allow workforce housing to be located in a majority, but not necessarily all, of the land area that is zoned to permit residential uses within the municipality. Such a municipality shall have the discretion to determine what land areas are appropriate to meet this obligation. This obligation may be satisfied by the adoption of inclusionary zoning as defined in RSA 674:21, IV(a). This paragraph shall not be construed to require a municipality to allow for the development of multifamily housing in a majority of its land zoned to permit residential uses.

II. A municipality shall not fulfill the requirements of this section by adopting voluntary inclusionary zoning provisions that rely on inducements that render workforce housing developments economically unviable.

III. A municipality's existing housing stock shall be taken into consideration in determining its

compliance with this section. If a municipality's existing housing stock is sufficient to accommodate its fair share of the current and reasonably foreseeable regional need for such housing, the municipality shall be deemed to be in compliance with this subdivision and RSA 672:1, III-e.

IV. Paragraph I shall not be construed to require municipalities to allow workforce housing that does not meet reasonable standards or conditions of approval related to environmental protection, water supply, sanitary disposal, traffic safety, and fire and life safety protection.

Source. 2008, 299:2, eff. Jan. 1, 2010.

### 2013 Workforce Housing Purchase and Rent Limits, RSA 674:58 - 61

This is an update to information that New Hampshire Housing provided to the Legislature in 2008 as it deliberated on the Workforce Housing statute. The purpose of this table is to assist municipalities in implementing the NH Workforce Housing statute, RSA 674:58 - 61. This analysis incorporates statutory requirements, and includes reasonable market assumptions for the targeted households' income levels such as interest rate, down payment, mortgage term, taxes, and insurance.

	Ownership 100% of 2013 HUD Median Area Income Family of four		Renters 60% of 2013 HUD Median Area Income Adjusted for a family of three	
	Income	Estimated Affordable Purchase Price <sup>1</sup>	Income	Estimated Affordable Monthly Rent <sup>2</sup>
<b>HUD Metropolitan Fair Market Rent Areas (HMFA):</b>				
Boston-Cambridge-Quincy MA-NH	\$94,400	\$355,000	\$50,980	\$1,270
Hillsborough Co. NH (Part)	\$81,000	\$265,000	\$43,740	\$1,090
Lawrence, MA-NH	\$84,900	\$284,000	\$45,850	\$1,150
Manchester, NH	\$75,700	\$258,000	\$40,880	\$1,020
Nashua, NH	\$92,700	\$313,000	\$50,060	\$1,250
Portsmouth-Rochester, NH	\$84,000	\$291,000	\$45,360	\$1,130
Western Rockingham Co, NH	\$103,600	\$350,000	\$55,940	\$1,400
<b>County Fair Market Rent Areas (Non Metro):</b>				
Belknap County	\$69,000	\$248,000	\$37,260	\$930
Carroll County	\$63,900	\$247,000	\$34,510	\$860
Cheshire County	\$68,800	\$222,000	\$37,150	\$930
Coos County	\$56,100	\$188,000	\$30,290	\$760
Grafton County	\$69,400	\$244,000	\$37,480	\$940
Merrimack County	\$79,700	\$265,000	\$43,040	\$1,080
Sullivan County	\$65,900	\$224,000	\$35,590	\$890

<sup>1</sup> Estimated maximum price using 30% of income, 5% down payment, 30year mortgage at 3.66%, 0.7 points, PMI, and estimated taxes and hazard insurance.

<sup>2</sup> Estimated maximum gross monthly rental cost (rent + utilities), using 30% of income.

File: WrkfrchsgPurchaseAndRentLimits2013.xlsx - 2013  
Print Date: 1/10/2013

Londonderry is located in the Western Rockingham County Metropolitan Fair Market Rent Area as defined by the US Department of Housing and Urban Development.

**2014 Workforce Housing Purchase and Rent Limits, RSA 674:58 - 61**

This is an update to information that New Hampshire Housing provided to the Legislature in 2008 as it deliberated on the Workforce Housing statute. The purpose of this table is to assist municipalities in implementing the NH Workforce Housing statute, RSA 674:58 - 61. This analysis incorporates statutory requirements, and includes reasonable market assumptions for the targeted households' income levels such as interest rate, downpayment, mortgage term, taxes, and insurance. Please note that this table provides information about the estimated maximum affordable purchase and rent amounts.

	<b>Ownership</b> 100% of 2014 HUD Median Area Income Family of four		<b>Renters</b> 60% of 2014 HUD Median Area Income Adjusted for a family of three	
	Income	Estimated Maximum Affordable Purchase Price <sup>1</sup>	Income	Estimated Maximum Affordable Monthly Rent <sup>2</sup>
<b>HUD Metropolitan Fair Market Rent Areas (HMFA):</b>				
Boston-Cambridge-Quincy MA-NH	\$94,100	\$339,000	\$50,810	\$1,270
Hillsborough Co. NH (Part)	\$82,600	\$260,000	\$44,600	\$1,120
Lawrence, MA-NH	\$82,800	\$266,000	\$44,710	\$1,120
Manchester, NH	\$76,500	\$251,000	\$41,310	\$1,030
Nashua, NH	\$93,800	\$304,000	\$50,650	\$1,270
Portsmouth-Rochester, NH	\$84,300	\$284,000	\$45,520	\$1,140
Western Rockingham Co, NH	\$106,300	\$349,000	\$57,400	\$1,440
<b>County Fair Market Rent Areas (Non Metro):</b>				
Belknap County	\$70,500	\$245,000	\$38,070	\$950
Carroll County	\$63,000	\$236,000	\$34,020	\$850
Cheshire County	\$70,200	\$219,000	\$37,910	\$950
Coos County	\$54,800	\$179,000	\$29,590	\$740
Grafton County	\$67,200	\$229,000	\$36,290	\$910
Merrimack County	\$83,300	\$268,000	\$44,980	\$1,120
Sullivan County	\$66,200	\$215,000	\$35,750	\$890

<sup>1</sup> Estimated maximum price using 30% of income, 5% down payment, 30year mortgage at 3.98%, 0.7 points, PMI, and estimated taxes and hazard insurance.

<sup>2</sup> Estimated maximum gross monthly rental cost (rent + utilities), using 30% of income.

File: WkfrchsgPurchaseAndRentLimits2014 - 2014  
Print Date: 1/30/2014

Source: New Hampshire Housing Finance Agency: <http://www.nhhfa.org/data-planning/planning/WorkforceHousing/2014WFPurchaseRentLimits.pdf>



**Londonderry Zoning Standards:**

**Principal Requirements Relative to Workforce Housing:**

**Section 2.2 Use Table**

	AR-1	R-III	C-I	C-II	C-III	C-IV	MUC	PUD	POD - 102 <sup>1</sup>	POD - 28 <sup>1</sup>
<b>RESIDENTIAL AND</b>										
Agriculture	P	P						P <sup>5</sup>		
Assisted Living Facilities		P	P	P	P		P	P <sup>5</sup>	P	P
Back Lot Development	C							P <sup>5</sup>		
Dwelling, multi-family	C <sup>3</sup>	P, C <sup>3</sup>	C <sup>3</sup>	C <sup>3</sup>	C <sup>3</sup>	C <sup>3</sup>		P <sup>5</sup>		
Dwelling, single family	P, C <sup>3</sup>	P, C <sup>3</sup>	C <sup>3</sup>	C <sup>3</sup>	S, C <sup>3</sup>	C <sup>3</sup>		P <sup>5</sup>		
Dwelling, two-family	P, C <sup>3</sup>	P, C <sup>3</sup>	C <sup>3</sup>	C <sup>3</sup>	S, C <sup>3</sup>	C <sup>3</sup>		P <sup>5</sup>		
Elderly Housing	P	P	P	P	P	P		P <sup>5</sup>	P	P
Manufactured housing	P, C <sup>3</sup>	P, C <sup>3</sup>								
Mixed use residential						P	P	P <sup>5</sup>		
Mobile homes	P									
Nursing Home and accessory uses		P	P	P	P			P <sup>5</sup>	P	P
Preexisting manufactured housing parks	P									
Presite Built Housing	P									

3 = Workforce Housing specific requirements, section 2.3.3.

5 = As part of an approved PUD master plan, section 2.8

Sections 2.3.3.10 through 2.3.4

These sections do not contain provisions concerning the size, location, or physical attributes of workforce housing developments. Rather these consist of qualification standards and administrative procedures particular to workforce housing, to ensure that a workforce housing development and its constituent rental and for-sale dwelling units remain affordable for low- and moderate-income households for 40 years.

The Preliminary Review of Londonderry Zoning Regulations, of November 5, 2014, found that these provisions are complicated far beyond what is necessary to achieve their purposes, imposing needlessly burdensome administrative responsibilities onto Town staff and considerable potential liability on the Town, and thus recommends abolishing the Town’s responsibility to administer workforce housing income verification requirements and procedures, so that the staff role becomes limited to enforcement of the purposes of these sections through periodic monitoring.

Sections 2.3.1, 2.3.2, and 3.6—Development Standards (*italics* indicates significant differences):

	<u>1-&amp;2-Family</u>	<u>Multi-Family</u>	<u>Workforce</u>	<u>Elderly</u>
Incentive			<u>Workforce S-F:</u> in AR-1, 25% increase in density, or 50% frontage reduction	
Density	1.2 > /ac S-F 0.8 > /ac 2-F	5 /usable ac. pub. sewer 3 /usable ac. septic	<u>Workforce M-F:</u> 10 /ac	with public sewer: 6 DU /ac. market; 12 BR /ac workforce septic: per DES
Max. DU/bldg. Avg. BR/DU		16; 20 by CUP 2	16; 20 by CUP 2 for 51%+ of DU	16; 20 by CUP 2 avg. market 1 among majority of workforce units
Lot Size	35,000+ S-F 52,500+ 2-F		--	
Tract size	n/a	<i>unspecified</i>	20 ac.	15 ac.
Frontage	100-150' S-F 150-200' 2-F	100' tract	100' tract	50' + 50'?
Setbacks:				
Front/Side Street	40'	40'	40' internal road	
Side	15'	35'	35'	
Rear	15'	30'	30'	
Height max.	35'	50'	4 stories	35'
Bldg Separation	20'	30'	30'	60'M-F; 30'S-F
Bldg Footprint/Lot size		55%	--	
Parking	2/DU	2.5/DU	1.75/DU	1.2/BR
Perimeter Buffer		100' in AR-1 50' in C	50' in AR-1, C, I	30' AR-1, R-III 50' C, I
Open Space		40% of lot area	40% of lot area	70% market.; 50% workforce
Usable O.S. min.	30,000 sf	25%	25%	
Special Provisions	in R-111, 75% for elderly		75% of units to be workforce per RSA	
Road Design	Subdiv.Reg	Subdiv.Reg		
Other			CUP reduction in any dimensional requirement	

Conditional Use Permit Requirements Regarding Workforce Housing:

All criteria encompassed in both of the following sets must be met to the satisfaction of the Planning Board for a Conditional Use Permit to be granted for a proposed workforce housing development.

## 1.5.2 Conditional Use Permits

- A. As provided for in RSA 674:21, Innovative Land Use Control, this Section of the Zoning Ordinance allows the granting of conditional use permits, by the Planning Board, as follows:
1. The Planning Board may approve a conditional use permit as presented, approve it with conditions, or deny it.
  2. The Board may require an applicant to submit a performance security in a form acceptable to the Planning Board, depending on the scale of the proposed use.
  3. The Board may assess an applicant reasonable fees to cover the cost of special investigative studies, for review of required documents, reviewed by the Town’s legal counsel, and any third party consultant.
- B. The following criteria must be satisfied for the Planning Board to grant a Conditional Use Permit in the Commercial District:
1. Granting of the application would meet some public need or convenience.
  2. Granting of the application is in the public interest.
  3. The property in question is reasonably suited for the use requested.
  4. The use requested would not have a substantial adverse effect on the rights of the owners of surrounding properties.
  5. The traffic generated by the proposed use is consistent with the identified function, capacity, and level of service of transportation facilities serving the community.
  6. There must be appropriate provision for access facilities adequate for the estimated traffic from public streets and sidewalks, so as to assure public safety and to avoid traffic congestion.
- C. Additional Conditional Use Permit procedures and requirements may be found within the specific districts of this Zoning Ordinance (Section 2).

## 2.3.3.7 Standards and Requirements for Workforce Housing

## A. Conditional Use Permit Criteria for Multi-Family Workforce Housing

- “1. In addition to the criteria from Section 2.3.3.4, the following criteria must be met for the Planning Board to grant a Conditional Use Permit for multi-family workforce housing:
- a. Granting of the application is in the public interest.
  - b. 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.
  - c. The project shall be serviced by municipal sewer and water service from Manchester Water Works, Derry Municipal Water, or Pennichuck Water and be consistent with the Town’s Sewer Facilities Master Plan.
  - d. The project is designed to meet the requirements of RSA 674:59, and provides a minimum of 75% of the units meeting the definition of “workforce housing” under RSA 674:58.
  - e. All workforce units must be designed in such a way as to be indistinguishable (architecturally) from any “market rate” units included in the development. Architectural design of any multi-family buildings must be reviewed by the Heritage Commission for their recommendations to the Planning Board.
  - f. The project must be located on a tract of property or properties of at least 20 acres in size. The

Planning Board may consider a project smaller than 20 acres if the project proposed would be the conversion of a large single family residential structure into multiple units that is identified as a “historic property” and listed in the Historic Properties Preservation Taskforce Report, on file with the Heritage Commission. Such conversions shall not propose any additional structures on the property and shall be required to place a historic preservation easement on the historic structure. Any conversion of a historic structure shall also meet all of the other conditional use permit criteria from this section.

- g. The application demonstrates that project for which the Conditional Use Permit is sought does not impact the general health, safety, and general welfare of the Town, and is otherwise in compliance with all requirements of the Zoning Ordinance, Site Plan Regulations, and Subdivision Regulations, as applicable to the proposed project.”

While containing some criteria particularly germane to workforce housing, these approval criteria in section 2.3.3.7 are similar with Conditional Use Permit criteria for other types of developments, although the workforce criteria do not include some criteria that are common to other sets of conditional use criteria, such as:

The proposed use is consistent with the Objectives and Characteristics of the zoning district.

The applicant has demonstrated that the alternative design for which the Conditional Use Permit is sought better achieves the Objectives and Characteristics of the district, while not diminishing surrounding property values or the ability of nearby parcels to develop in accordance with the Objectives and Characteristics of the district.



2013 Master Plan: Sectors Description, page 152

## Sectors

### **O-1 Preserved Open Sector**

The Preserved Open Sector is assigned to areas that are permanently protected from development by law, conservation easement, ownership by land trust, or other similar means, and includes surface water bodies. Certain properties may possess reserved rights within existing conservation easements.

### **O-2 Reserved Open Sector**

The Reserved Open Sector is assigned to open space areas that should be, but are not presently permanently protected from development. This Sector is comprised of floodplains and special flood hazard areas, steep slopes, utility corridors, farmlands, and land subject to the Town's Conservation Overlay District.

### **G-1 Restricted Growth Sector**

The Restricted Growth Sector is assigned to areas that are currently vacant but may be subject to development. Future development should be restricted to that permitted under existing zoning or occur in the form of conservation subdivisions containing open space.

### **G-2 Controlled Growth Sector**

The Controlled Growth Sector is assigned to areas that may support mixed use development due to proximity to one or more existing or planned thoroughfares. Development in this Sector should occur in the form of conservation subdivisions containing open space or activity centers.

### **G-3 Intended Growth Sector**

The Intended Growth Sector is assigned to areas that may support substantial mixed used development due to proximity to existing or planned regional thoroughfares or transit. Future development should occur as complete communities in the form of activity centers.

### **G-4 Infill Growth Sector**

Reserved. Not applicable in Londonderry.

### **G-5 Retrofit Growth Sector**

The Retrofit Growth Sector is assigned to areas that are already developed in a suburban development pattern and have potential to be modified or completed as activity centers.

## Locations of Growth Centers

See pages 7 & 9 in *Housing Opportunities in Londonderry* report.

### G-1 Restricted Growth Sector:

Primarily AR-1

### G-2 Controlled Growth Sector:

NE area between Rockingham, Brewster Roads, largely zoned IND-I&II

Village Center Recreational/Village Center Common

Route-102 POD Adams/Nashua/Old Nashua Rds west of Common/Town Forest

C-II/Route-102 POD at Hudson line

### G-3 Intended Growth Sector

North Village

Woodmont

Young Road/South Fire Station area

### G-5 Retrofit Growth Sector

South Village Suburban Corridor Retrofit and East Nashua Road Commercial Corridor C-I&II to Exit 4 & Derry line

Route-28 POD & adjacent commercial areas to east near Exit 5

## Conservation & Growth Map



### Conventional Suburban

 **Conventional Suburban Neighborhoods**

Conventional Suburban Neighborhoods are assigned to existing residential neighborhoods that contribute to more suburban type development patterns. These existing neighborhoods do not get redesignated as either Sectors or Special Districts, remaining “as is”.