

CONWAY PLANNING BOARD

MINUTES

JANUARY 11, 2001

A meeting of the Conway Planning Board was held on Thursday, January 11, 2001, beginning at 7:03 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Chair, Sheila Duane; Selectmen's Representative, Gary Webster; Vice Chair, Stacy Sand; Secretary, Conrad Briggs; John Waterman; Robert deFeyter; Arthur Bergmann; Alternate, Martin Frank; Planning Director, Thomas Irving; and Recording Secretary, Holly Meserve.

**REVIEW AND ACCEPTANCE OF MINUTES**

The Minutes of December 14, 2000 should be amended as follows: page 2, paragraph one, line 5, should read, "...some opportunity if we are to meet the constitutional requirements." Mr. Briggs made a motion, seconded by Mr. deFeyter, to approve the Minutes of December 14, 2000 as amended. Motion unanimously carried.

**PUBLIC HEARING – SEXUALLY ORIENTED BUSINESSES – ARTICLE 147-20**

The public hearing was opened at 7:05 p.m. Ms. Duane asked for public comment; Carl Harmon asked if there were any changes or additional protection from the last meeting. Mr. Irving answered in the negative. Mr. Harmon stated that nobody wants to constrict this type of business in any particular area, but there is one large area for the dumping ground. Ms. Sand stated that this is a photograph in time. Ms. Sand stated that the reality is there is nothing to stop these types of businesses buying up lots on Route 16.

Ms. Sand stated that PSNH and the Kennett Company largely own the area available on the East Conway Road. Ms. Sand stated that there is no access right now to any of that land either. Ms. Sand stated that residential is protecting a narrow strip on Route 16. Mr. Harmon stated that we do not have any protection from these types of businesses now. Mr. Irving stated that that is correct. Mr. Harmon asked if this proposal would give protection to residences. Mr. Irving answered in the affirmative. The public hearing was closed at 7:14 p.m.

**Ms. Sand made a motion, seconded by Mr. Briggs, to post Article 147-20 as written to the warrant.**

Mr. deFeyter stated that he is concerned with the ordinance as it stands now. Mr. deFeyter stated that it is fairly flawed. Mr. deFeyter stated that this provides a snap shot in time and areas could open up that would allow these types of businesses. Mr. deFeyter stated that it could also come up that there is no available space and fail the constitutional test. Mr. deFeyter stated that it should be limited to the Industrial-2 district because of the depth and it is the least likely place someone would want to put this.

Mr. Bergmann stated that he agrees with Mr. deFeyter and that we should go with last year's proposal. Mr. Webster stated that he doesn't think we can go another year without protection. Ms. Sand stated that last year's proposal targeted one area, but Conway's industrial area is not the same as other towns. **Motion carried with Mr. deFeyter and Mr. Bergmann voting in the negative.**

**PUBLIC HEARING – ARTICLE 147-12.2.A. – INDUSTRIAL-2 DISTRICT – PERMITTED USES**

A public hearing was opened at 7:27 p.m. Ms. Duane asked for public comment; Tom Dewhurst asked to reserve public comment until after the Board's comments. Ms. Duane agreed. Ms. Duane asked for Board comment; Mr. Bergmann stated that the Industrial zone was set up so there would be no more residences. Mr. Bergmann asked why are we allowing a caretakers residence as there is a possibility of it being rented. Mr. deFeyter submitted copies of the 1997 Planning Board minutes in regard to the industrial district and a copy of the East Conway Road study to the Board.

**Adopted: February 8, 2001 – As Amended  
CONWAY PLANNING BOARD – JANUARY 11, 2001**

Ms. Duane asked for public comment; Mr. Dewhurst stated in 1997 this was not contemplated. The public hearing was closed at 7:35 p.m. **Mr. Briggs made a motion, seconded by Ms. Sand, to post Article 147-12.2.A. as written to the warrant. Motion carried with Mr. deFeyter and Mr. Bergmann voting in the negative.**

**PUBLIC HEARING – PETITIONED ARTICLE – ARTICLE 147-6- DEFINITION OF A SENIOR HOUSING UNIT**

A public hearing was opened at 7:37 p.m. Ms. Duane stated that we need more information on the federal statutes regarding age discrimination. Ms. Duane asked for public comment; Gerald Farrington asked the Board to approve the petition as we do not have this type of facility in the area. Stephen Hallett stated that he cannot gain financing without a kitchen; they just don't do that anymore. The public hearing was closed at 7:49 p.m.

**Mr. Briggs made a motion, seconded by Mr. Webster, to continue the public hearing for Article 147-6, definition of a senior housing unit, until Tuesday, January 16, 2001 at 3:00 p.m. Motion carried with Ms. Sand abstaining from voting.**

**RUSSELL AND LYNN KNOX – MINOR SITE PLAN REVIEW (1999 TAX MAP 246, PARCEL 15/OLD MAP 11, PARCEL 59-8) FILE #MR01-01**

Shawn Bergeron of Bergeron Technical Services and Russell Knox appeared before the Board. **Ms. Sand made a motion, seconded by Mr. Bergmann, to accept the application of Russell and Lynn Knox for a Minor Site Plan review as complete. Motion unanimously carried.**

Mr. Bergeron stated that this site is the former Greener Image store and the owner would like to change it to the Meredith-Conway Harley Davidson store. Mr. Bergeron stated that there are two areas the applicant would like to enclose. Mr. Irving reviewed his staff report. Mr. deFeyter expressed concern on the appearance of the back of the buildings facing Shaw's Way. Ms. Duane polled the Board regarding how to dress up the back of the buildings. The Board agreed that the applicant should plant trees that are agreeable to the Town and paint the back of the buildings.

Ms. Duane read the waiver request for Article 123-21.G. Ms. Duane read the requirements to grant a waiver. **Ms. Sand made a motion, seconded by Mr. Briggs, to grant the waiver request for Article 123-21.G. Motion unanimously carried.** Ms. Duane read a waiver request for Article 123-22.A. **Ms. Sand made a motion, seconded by Mr. Bergmann, to grant Article 123-22.A. Motion unanimously carried.** Ms. Duane read a waiver request for Article 123-28 and 131-67.C.8.(a). **Mr. Briggs made a motion, seconded by Ms. Sand, to grant the waiver request for Article 123-28 and 131-67.C.8.(a). Motion unanimously carried.**

Ms. Duane read a waiver request for Article 123-30.A.(2). **Ms. Sand made a motion, seconded by Mr. Briggs, to grant the waiver request for Article 123-30.A.** Mr. Bergmann asked if the area between the two buildings could be loamed and seeded. Mr. Bergeron answered in the affirmative. **Motion carried with Mr. deFeyter voting in the negative.** Ms. Duane read a waiver request for Article 123-30.A.(3). **Ms. Sand made a motion, seconded by Mr. Bergmann, to grant the waiver request for Article 123-30.A.(3).** Millie Eastman, abutter, stated that she is concerned with snow being stored on her property. Mr. Bergeron stated that the applicant is adding wheel stops, which will prevent storing snow on the abutter's property. Mr. Bergeron stated that most of the snow will have to be removed anyway. **Motion unanimously carried.**

Ms. Duane read a waiver request for Article 123-30.D.(1). **Mr. Bergmann made a motion, seconded Mr. deFeyter, to continue the waiver request for Article 123-30.D.(1) until the applicant provides a landscaping plan.** Mr. Irving stated that the tree count change will not incorporate the Town land. **Motion carried with Ms. Duane and Ms. Sand voting in the negative and Mr. Waterman abstaining from voting.**

**Adopted: February 8, 2001 – As Amended  
CONWAY PLANNING BOARD – JANUARY 11, 2001**

**Mr. deFeyter made a motion, seconded by Mr. Waterman, to postpone the waiver request for Article 123-30.D.(6).** Ms. Sand stated that an abutter has a concern with this waiver and the Board should address it this evening. **Mr. deFeyter withdrew his motion and Mr. Waterman withdrew his second.** Ms. Duane read a waiver request for Article 123-30.D.(6). Ms. Sand stated that she is concerned with the northern most tree. Ms. Eastman stated that she was concerned with a tree blocking her sign. After a brief discussion, **Mr. Bergmann made a motion, seconded by Mr. Webster, to grant the waiver request for Article 123-30.D.(6). Motion carried with Mr. Waterman and Mr. deFeyter voting in the negative.**

Ms. Duane read a waiver request for Article 123-30.D.(8). **Ms. Sand made a motion, seconded by Mr. Briggs, to grant the waiver request for Article 123-30.D.(8).** Ms. Sand stated that the northerly tree will hinder traffic. Mr. Bergmann stated that the applicant should put the street trees in the proper location as long as it does not interfere with the traffic. Ms. Duane polled the Board to require two or three street trees. Mr. Bergmann answered three street trees. Mr. deFeyter, Mr. Waterman, Ms. Sand, Ms. Duane, Mr. Briggs, Mr. Webster and Mr. Frank all agreed to two trees and an alternate.

Ms. Sand asked if the applicant would amend the waiver request to allow two street trees and an alternate. Mr. Bergeron stated that the applicant is comfortable with amending the waiver request. **The motion was withdrawn.** Ms. Duane read a waiver request for Article 123-40.2.C. The Board agreed that the waiver request should be rewritten. Ms. Duane asked for public comment; there was none. **Mr. Briggs made a motion, seconded by Ms. Sand, to continue the minor site plan review for Russell and Lynn Knox until January 25, 2001. Motion unanimously carried.**

**ALVIN MILLER – CONCURRENT FULL SITE PLAND AND SUBDIVISION REVIEW (1999 TAX MAP 214, PARCEL 79/OLD TAX MAP 19, PARCEL 75) FILE #FR00-01 AND S01-01**

The applicant withdrew the application. The Board continued with a conceptual review of the proposed project.

**MOUNTAIN RIVER VILLAGE CONDOMINIUMS – CONCEPTUAL REVIEW (1999 TAX MAP 265, PARCEL 151.003/OLD TAX MAP 44, PARCEL 1A-3)**

Shawn Bergeron of Bergeron Technical Services and Dick Goss, applicant, appeared before the Board for a conceptual review of the proposed project.

Meeting adjourned at 11:05 p.m.

Respectfully Submitted,

Holly L. Meserve  
Recording Secretary

**Proposed amendment to insert an additional provision and renumber the existing §147-20 and subsequent sections accordingly:**

147-20 Sexually Oriented Businesses

- A. Purpose and Intent. It is the purpose of this ordinance to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the Town of Conway; and, it is the intent to promote the health, safety and general welfare of the citizens of the Town of Conway; and, it is the intent of this article 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 amendment have neither the purpose nor the effect of imposing limitation or restriction on the content of any communicative materials, including sexually oriented materials; and, it is not the intent nor effect of this ordinance 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 the effect of this ordinance to condone or legitimize the distribution of obscene material.
- B. Restrictions. Sexually oriented businesses shall only be permitted in the business districts. Sexually oriented businesses shall not be permitted within one thousand (1000) feet of a church or place of worship, parish house or convent, a public, parochial or private school, a state approved day care center, residence, any establishment in which minors constitute more than fifty (50) percent of the patrons, a public park, or recreation center or another sexually oriented business.
- C. Measure of Distance. The measure of distance between any sexually oriented business and other named point of reference shall be measured in a straight line from the nearest part of the structure in which a any sexually oriented business is proposed or exists to the nearest property boundary line of the lot containing any other named point of reference.
- D. Site plan approval by the Conway Planning Board shall be a prerequisite for the establishment of a sexually oriented business. The Planning Board may impose reasonable restrictions relative to buffers, outdoor lighting, signs, parking, egress and ingress, pedestrian movement, landscaping, building aesthetics and measures to insure that displays of merchandise conform with NH RSA 571-B.
- E. Violation of the provisions of this ordinance is declared to be a public nuisance per se, which shall be abated by the Town of Conway by way of civil abatement procedures.
- F. Nothing in this ordinance is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates any Town of Conway ordinance or statute of the State of New Hampshire regarding public nuisance, sexual conduct, lewdness, or obscene or harmful matter or the exhibition or public display thereof.
- G. If any section, subsection, sentence clause, phrase or any portion of this ordinance is for any reason held invalid or unconstitutional by the final decision of a court of competent jurisdiction, such decision shall not effect the validity of the remaining portions of this ordinance. The Town of Conway hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more section, subsection, sentence, clause, phrase or portion thereof be declared invalid or unconstitutional.

ps - v un z run.

# HASTINGS LAW OFFICE, P.A.

ATTORNEYS AND COUNSELLORS AT LAW

DAVID R. HASTINGS 1847-1896  
EDWARD E. HASTINGS 1879-1939  
HUGH W. HASTINGS 1914-1967

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PETER G. HASTINGS  
DAVID R. HASTINGS III  
PETER J. MALIA, JR.  
JOHN LISNIK, JR.

71 MAIN STREET  
P.O. BOX 290  
FRYEBURG ME 04037-0290

TELEPHONE: (207)935-2061  
FAX: (207)935-3939  
E-Mail: hlo@landmarknet.net

## MEMORANDUM

**TO:** Tom Irving, Town Planner

**FROM:** Peter J. Malia, Jr., Esquire *PJM*

**DATE:** January 10, 2001

**RE:** Amendments to Zoning for Warrant

Peter Hastings has already provided you with his comments regarding amendments 1 through 6. I would suggest that you consider a clerical change to Amendment #1. As it currently reads, Amendment #1 proposes two separate definitions regarding sexually oriented businesses to Section 147-6. They would not fall in alphabetical order. I would suggest incorporating the first definition (establishment of) into the sexually oriented business definition, by separating the sexually oriented business definition into Sections A (defined) and B (establishment).

You had asked about Contract Zoning. I do not think that the senior housing units definition constitutes Contract Zoning. Contract Zoning involves the rezoning of a property to a less restrictive zoning classification subject to an agreement by a property owner to observe certain specified limitations on the uses and physical development of the property that other properties in the zone are not required to observe. Contract Zoning is most often used in dealing with property located in a more restrictive zone, but on the borderline of a less restrictive zone. Here, there is no contract, or agreement, on behalf of any property owner to observe any specified limitations on the uses and physical development of his/her property that other properties in the zone are not required to observe.

Finally, regarding the wording for the warrant for these amendments, I spoke with Mike King about that, and he said that he will take these amendments from the Planning Board and puts them into the proper wording for the warrant.

# HASTINGS LAW OFFICE, P.A.

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HUGH W. HASTINGS 1914-1967

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PETER G. HASTINGS  
DAVID R. HASTINGS III  
PETER J. MALIA, JR.

## MEMORANDUM VIA FAX AND MAIL

**TO:** Thomas Irving, Town Planner

**FROM:** Peter J. Malia, Jr., Esquire *PJM*

**DATE:** December 13, 2000

**RE:** Zoning Amendment Regarding Sexually Oriented Businesses

Following are my proposed changes to the Ordinance which you faxed to my attention. As we discussed, I would suggest making sexually oriented businesses a separate and distinct section of the Ordinance, at Section 147-20.

To answer the questions on your cover sheet, it is legal to restrict such uses to just the Highway Commercial and Village Commercial Districts. Whether the proposed regulation provides a reasonable opportunity for the establishment of a sexually oriented business depends upon the availability of areas within the Town for such use. A Town may limit the location of adult business to certain areas, which are no closer than a certain number of feet from certain points of reference such as churches, schools and residential areas, as long as the Town does not effectively deny adult business owners a reasonable opportunity to open and operate one in the Town. If in fact the restrictions effectively eliminate all parcels of land within the Town from such use, then in my opinion the restriction would be overly restrictive and unconstitutional. If the only way for an adult business owner to open his or her business would be to subdivide a larger tract of land, then that restriction, in my opinion, would not withstand a constitutional challenge.

Finally, you inquired as to whether such businesses can have greater buffer distances imposed upon them in one zone as compared to another zone. The answer is only if a substantial governmental interest is served.

Conway memos Irving sexually oriented businesses

## PETITION FOR ZONING AMENDMENT

The undersigned, being twenty-five (25) or more registered voters in the Town of Conway, New Hampshire, hereby petition pursuant to the provisions of RSA 675:4 that the following article to amend the Conway Zoning Ordinance be submitted to the voters of the Town of Conway at the annual meeting to be held in March 2001.

### **I. Adopt New Definition Chapter 147, Zoning Ordinance:**

#### **“SENIOR HOUSING UNIT”**

A dwelling, or portion thereof capable of providing living quarters limited to two (2) adults per unit, having a minimum age of sixty two (62) years old. Said dwelling unit(s) must be within a single building having at least twenty-five (25) overall separate units under the same roof. Said building must provide for a commercial kitchen and common dining facility as a minimum. Said **“SENIOR HOUSING UNITS”** shall be exempt from provisions under the existing definition of “Residential Unit”, which define a unit as providing a kitchen. **“SENIOR HOUSING UNITS”** within such an aforementioned age restricted “Retirement Housing Complex”, shall be allowed to have separate individual kitchens. For density purposes the overall building housing all said individual dwelling units within said building, under the same roof will be considered one unit.

Conway - L. 01/16/01 / 3:00 p.m.

SIGNATURE

PRINTED NAME

✓		Michelle GREEN
Not on CKlist 2.	Michelle Green	Michelle GREEN
Not on CKlist 3.	Laurie Houghton	Laurie Houghton
14.	Susan Z. Smith	Susan Smith
Not on CKlist 5.	Doreen McLeelan	Doreen McLeelan
16.	Linda Anthony	Linda Anthony
17.	Ken Martin	KEN MARTIN
Not on CKlist 8.	Ron Ciraco	RON CIRACO
18.	Uterie Shae	Uterie SHAE
Not on CKlist 10.	Becky Mulhern	Becky Mulhern
11.	Becky Mulhern	Becky Mulhern
12.	Beth Campbell	Beth Campbell
13.	Dawn Conerty	Dawn Conerty
14.	Robert M. Elliott	Robert M. Elliott
First Name? 15.	S. Bragg	S. BRAGG
Not on CKlist 16.	(AKA Beverly S. Doe) Beverly S. Doe	Beverly S. Doe
17.	Rainia M. Shackford	Rainia M. Shackford
18.	Kristy Deak	Kristy Deak
Not on CKlist 19.	R. Fetters	Randolph Fetters
20.	Crystal Neddenriep	Crystal Neddenriep

The minimum number of 25 signatures of registered voters of the Town of Conway has been found on the petition by the Supervisors of the Checklist as of 12/13/00

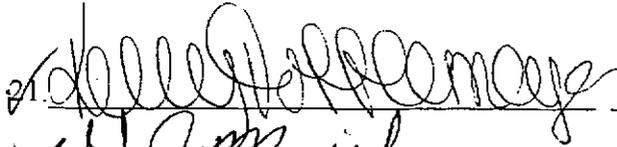
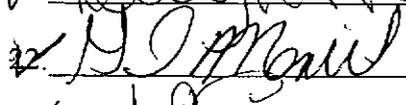
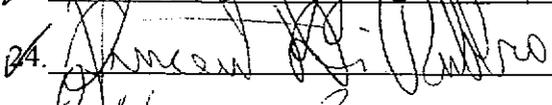
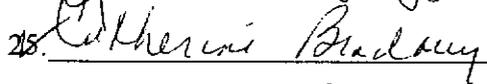
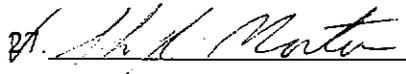
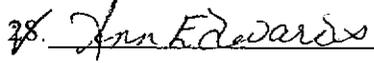
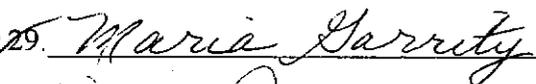
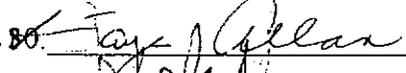
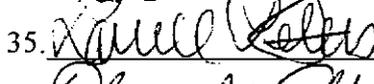
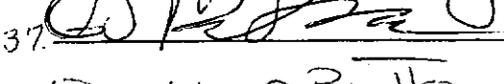
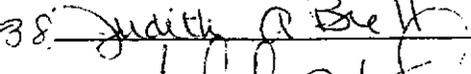
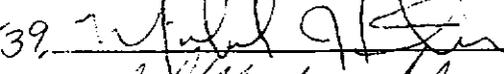
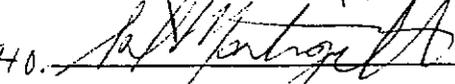
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TOWN OF CONWAY

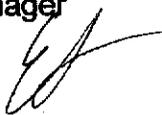
CONT. SIGNATURE

CONT. PRINTED NAME

21. 	Kelly Toppemayer
22. 	Glenn Merritt -
23. 	Jean Cagger
24. 	VINCENT D. Rubbio
25. 	Catherine Bradbury -
26. 	Debra L. Pina
27. 	Shelagh Merton
28. 	Ann Edwards
29. 	Maria Garrity
30. 	Faye ALLAN -
31. 	Sarah Shuff
32. 	Carla A Juvin
33. 	Gloria A. Tibbetts
34. 	Leana L. Emorey -
Not on CK list 35. 	LAUREL Peters -
36. 	Jennifer Armstrong -
Not on CK list 37. 	Gary Rockness -
38. 	Judith A. Brett
39. 	Michael J. Kline
40. 	Sal Martignetti

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# Memo

**To:** Holly Meserve, Project Manager  
**From:** Earl Sires, Town Manager   
**CC:** Board of Selectmen  
**Date:** 12/13/00  
**Re:** Petition for zoning amendment to adopt a new definition of "Senior Housing Units"

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Attached is a zoning amendment petition received by the Board of Selectmen. As per state statute, the Board has forwarded this to the Planning Board. Please see that this is scheduled for consideration by the Planning Board. Also attached is a memo from Town Counsel outlining required procedures. Thank you

# HASTINGS LAW OFFICE, P.A.

ATTORNEYS AND COUNSELLORS AT LAW

DAVID R. HASTINGS 1847-1896  
EDWARD E. HASTINGS 1879-1939  
HUGH W. HASTINGS 1914-1967

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E-Mail: hlo@landmarknet.net

DAVID R. HASTINGS II  
PETER G. HASTINGS  
DAVID R. HASTINGS III  
PETER J. MALIA, JR.  
JOHN LISNIK, JR.

## MEMORANDUM (Via Fax and Mail)

**TO:** Earl Sires, Town Manager  
**cc:** Thomas Irving, Town Planner  
**FROM:** Peter J. Malia, Jr., Esquire   
**DATE:** December 11, 2000  
**RE:** Petition for Zoning Amendment-Senior Housing Unit Definition

I have reviewed the definition of Senior Housing Unit proposed to be added to Chapter 147 of the Zoning Ordinance by petition of 25 or more registered voters in the Town. Although not in correct warrant article form, it is reasonably clear so that the intent of the article can be ascertained by the voters, and therefore it should be placed on the ballot.

The procedure to place this petition on the ballot is as follows. The petition must be submitted to the Board of Selectmen during the period between November 13 and December 13, 2000 (between 120 and 90 days prior to the annual Town Meeting). The law then requires the Selectmen to "submit the petition to the Planning Board in a timely manner."

The Planning Board, at its first regular meeting following the December 13, 2000 deadline, must set the date for a public hearing for each petitioned amendment which is received, and must hold a public hearing on each petitioned amendment. Notice of this public hearing must be the same as set forth in RSA 675:7, which requires notice of each public hearing to be published in a paper of general circulation in the municipality and be posted in at least two public places at least ten (10) calendar days before the hearing. The full text of the proposed amendment does not need to be included in the notice, but an adequate statement describing the proposal and designating the place where the proposal is on file for public inspection (the Town Clerk's office) must be stated in the notice.

At the public hearing, the Planning Board may include editorial revisions and textual modifications to the final form of the amendment, so long as not substantively altered by the Board. The Planning Board should forward to the Town Clerk all proposed amendments to the Zoning Ordinance, Historic District Ordinance, or Building Code not later than January 9, 2001 (the fifth Tuesday before the annual meeting). A notation on the ballot must state the Planning Board's approval or disapproval.

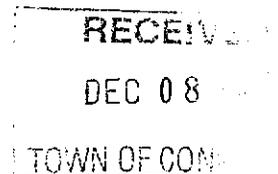
## **PETITION FOR ZONING AMENDMENT**

The undersigned, being twenty-five (25) or more registered voters in the Town of Conway, New Hampshire, hereby petition pursuant to the provisions of RSA 675:4 that the following article to amend the Conway Zoning Ordinance be submitted to the voters of the Town of Conway at the annual meeting to be held in March 2001.

### **I. Adopt New Definition Chapter 147, Zoning Ordinance:**

#### **“SENIOR HOUSING UNIT”**

A dwelling, or portion thereof capable of providing living quarters limited to two (2) adults per unit, having a minimum age of sixty two (62) years old. Said dwelling unit(s) must be within a single building having at least twenty-five (25) overall separate units under the same roof. Said building must provide for a commercial kitchen and common dining facility as a minimum. Said **“SENIOR HOUSING UNITS”** shall be exempt from provisions under the existing definition of “Residential Unit”, which define a unit as providing a kitchen. **“SENIOR HOUSING UNITS”** within such an aforementioned age restricted “Retirement Housing Complex”, shall be allowed to have separate individual kitchens. For density purposes the overall building housing all said individual dwelling units within said building, under the same roof will be considered one unit.



SIGNATURE

PRINTED NAME

Jane M. Boyle

✓ [Signature] Jane M. Boyle

Not on CKlist 2. Michelle Green Michelle GREEN

Not on CKlist 3. Laurie Houghton Laurie Houghton

14. Susan Z. Smith Susan Smith

Not on CKlist 5. Doreen McLellan Doreen McLellan

16. Linda Anthony Linda Anthony

17. Ken Martin KEN MARTIN

Not on CKlist 8. Ron Ciraco RON CIRACO

19. Uterie Shae Uterie SHAE

Not on CKlist 10. Becky Mulhern Becky Mulhern

11. Beth Campbell Beth Campbell

12. Dawn Conway Dawn Conway

13. Robert M. Elliott Robert M. Elliott

14. S. Bragg S. BRAGG

First Name? 15. [Signature] S. BRAGG

Not on CKlist 16. (AKA Beverly S. Doe) Lanny Doe Beverly S. Doe

17. Raina M. Shackford Raina M. Shackford

18. Kristy Deak Kristy Deak

Not on CKlist 19. R. Fitters Randolph Fitters

20. Crystal Neddenriep Crystal Neddenriep

The minimum number of 25 signatures of registered voters of the Town of Conway has been found on the petition by the Supervisors of the Checklist as of 12/13/00  
[Signature]

RECEIVED  
DEC 06  
TOWN OF CONWAY

CONT. SIGNATURE

CONT. PRINTED NAME

21. *[Signature]* Kelly Toppkemayer

22. *[Signature]* Glenn Merritt -

23. *[Signature]* Jeanne Capper

24. *[Signature]* Vincent D. Rubbio

25. Catherine Bradbury -

26. Debra L. Pina

27. *[Signature]* Shelagh Montan

28. Ann Edwards

29. Maria Garrity

30. Faye Allan -

31. *[Signature]* Sarah Shuff

32. *[Signature]* Carla A Juwin

33. Gloria A. Tibbetts

34. *[Signature]* Wenna L. Smalley -

Not on CK list 35. *[Signature]* LAUREL PETERS -

36. *[Signature]* Jennifer Armstrong

Not on CK list 37. *[Signature]* Gary Rocknessen -

38. Judith A Brett

39. *[Signature]* Michael J. Kline

40. *[Signature]* Sal Martignetti

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TOWN OF CO...

# HASTINGS LAW OFFICE, P.A.

ATTORNEYS AND COUNSELLORS AT LAW

DAVID R. HASTINGS 1847-1896  
EDWARD E. HASTINGS 1879-1939  
HUGH W. HASTINGS 1914-1967

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DAVID R. HASTINGS II  
PETER G. HASTINGS  
DAVID R. HASTINGS III  
PETER J. MALIA, JR.  
JOHN LISNIK, JR.

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P.O. BOX 290  
FRYEBURG ME 04037-0290

TELEPHONE: (207)935-2061  
FAX: (207)935-3939  
E-MAIL: hlo@landmarknet.net

January 10, 2001

Via: Facsimile and U.S. Mail

Tom Irving, Town Planner  
Town of Conway  
P.O. Box 70  
Center Conway, NH 03813

Re: Petition Zoning Article on Senior Housing Unit

Dear Tom:

You have asked me to review the petitioned article dealing with senior housing units. There is a proposal to amend the definition section of the ordinance so that a senior housing unit would allow multi-residences on a small lot (minimum size lot possibly) so long as the building exterior met the requirements of setback and other site plan review conditions. Furthermore, an existing building whether or not meeting site plan requirements would, as far as setback, be permitted to create multi-residential units. The only condition imposed is that the residents in each unit shall not exceed two and shall have a minimum age of 62 years.

I am concerned regarding this article as proposed for the following reasons:

1. The Town Zoning Ordinance basically is intended to control use of land rather than type of individuals occupying the same. A primary State and Federal requirement is that there shall be no discrimination of individuals based on age, sex, race, creed or color. It seems appropriate that while the developer may impose restrictions on individuals who may use the premises, it is not within the powers of a town to so regulate individual's use. As an example, I do not believe that you could have a Town park that could only be used by people 62 years of age or older. The fact that this is a private development does not

insure the legality of a Town regulation imposed upon the property. Therefore, it is my opinion that an age limitation is clearly discriminatory and either would be invalid or would permit any other development regardless of age, to be developed in the same manner in the Town.

2. This proposal effectively alters the density requirements for a particular class of citizens inasmuch as the area involved for a minimum lot size is only controlled by the possible parking issues and size of the structure that could be put on the premises. The units within the structure, which are not to be counted as a separate unit, could be of very small size perhaps as little as 300 or 400 square feet, and thus a building of 4,000 or 5,000 square feet could perhaps contain 10 or more units. This would substantially enhance the density of use of the lot. Again, as it is limited to a particular class of citizens, I do not understand that this would meet the nondiscriminatory test on usage. The Town Zoning Ordinance would be held to a much higher standard on review if it were to deal with a particular class of individuals such as proposed. This is contrary to General Zoning Ordinances that apply to all individuals and thus meet the constitutional test so that a lower standard on review is required by the Court. Again, I doubt that for this reason the ordinance would stand up to constitutional review.

For the above reasons, I do not believe it is in the best interest of the Town to adopt this definition on the basis that it clearly would establish potential litigation by those developers excluded from the class and could have unintended consequence to the other provisions of the existing Zoning Ordinance regarding density.

If you have any further questions regarding any of this, please feel free to contact me.

Yours sincerely,



Peter G. Hastings

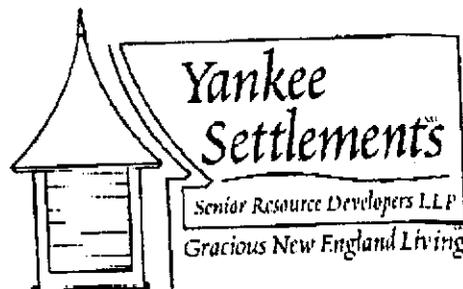
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RECEIVED

JAN 12 2001

TOWN OF CONWAY



Mr. Thomas B. Irving  
 Planning Director  
 Town Of Conway  
 P.O. Box 70  
 Center Conway, NH 03813

January 12, 2001

Sent Via Fax and 1<sup>st</sup> Class mail this Date to above and Copies below to Town Attorney Directly.

Dear Tom,

As a result of the Pubic Hearing of Thursday, January 11, 2001, and the Memorandum from Conway Town Counsel together with your request for me to respond to his concerns, please find the following, all said legislation stems from the "Housing For Older Persons Act of 1995";

- Federal Law, by means of the "Fair Housing Amendments Act of 1988" specifically enables Municipalities, together with developers as well as other groups to discriminate for "All residents of a housing development to be deed restricted to persons 62 or older". I've enclosed the section a of; Public Health And Welfare 42 USCS / 3605. Please note section 3607.(2) (B).

The only change to this was legislation as it relates to deed restricted persons 55+ in age, as entered into law as H.R. 660 on 12/28/95. This revision eliminates the requirement that 55 and older housing provide significant facilities and services for its residents, in essence reducing the service aspect as it relates to such developments.

With respect to restricting and or establishing the numbers of units within a building this is clearly within the power of any town. We've reviewed this today with Amziah W. Craig, Director of Fair Housing Enforcement Division of U.S. Dept. of HUD, at Office of Fair Housing and Equal Opportunity at Thomas P. O'Neill, Jr. Federal Building, 10 Causeway Street, Boston Massachusetts. Please feel free to contact them directly. We have also spoke to the New Hampshire Attorney Generals Office, as it relates to number of unit restrictions within a development. They also support and state that nothing prohibits a municipality to set limits on the amount of units within a building, taking into account other considerations such as building codes etc...

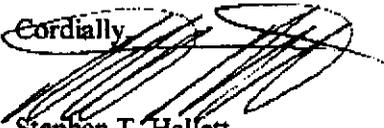
We run into such municipality-imposed limits on a regular basis, and can provide samples to the board if you so desire. The main reason to establish a limit above a threshold of about 15 units is to insure that the project is truly a "Retirement

PO Box 172 • North Hampton, NH 03862 • tel: 207-324-9452 • fax: 207-490-3661

Development", and not a means for someone to try and slip in the back door and get more units when the development really isn't "retirement friendly".

I'm hopeful that this information is helpful, if I can provide you any further information prior to the continuation of our public hearing scheduled for 12/17/2001 at 3:00 PM; please do not hesitate to ask me. Please call me directly at (207)-363-0358, my fax number is (207)-351-1381, my cell number is (603)-661-9723.

Amziah W. Craig, from HUD was going to mail me additional sets of the formal full laws, I will give them to you and have a set for the Town Attorney on Wednesday, so they are available for your reference and use in the future.

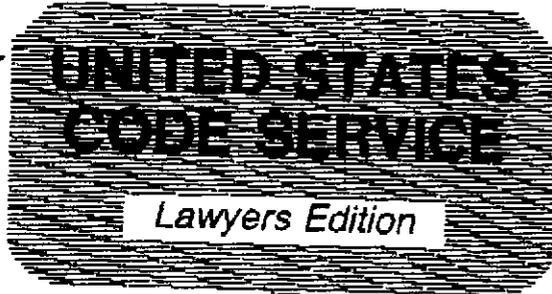
Cordially  


Stephen T. Hallett  
Managing Partner NCRV, LLC

CC: Peter Hastings and Peter Malia via Fax This date  
Enc: Materials on Laws

Ref  
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Issued in

May, 1995

CUMULATIVE SUPPLEMENT

By The Publisher's Editorial Staff

42 USCS  
The Public Health  
and Welfare  
§§ 2571-3700



Lawyers Cooperative Publishing  
Aqueduct Building, Rochester, New York 14694

Law Review Articles:

Ulrich, The Fair Housing Amendments Act of 1988: new litigation looks for housing advocates, 46 *Bul. Law* 333, November 1990.

Payne, Fair housing for the 1990s: the Fair Housing Amendments Act and the Ward's Cove [Wards Cove Packing Co v Atonio, 109 S Ct 2145] case, 18 *Real Est L J* 307.

INTERPRETIVE NOTES AND DECISIONS

Black former insurance agent fails to state cause of action under 42 USCS §§ 3604 and 3605 against insurer based on insurer's alleged practice of "redlining," defined as arbitrary refusal to underwrite risks of persons residing in predominantly black neighborhoods, since neither section prohibits alleged hazard insurance redlining practice. *Mackey v Nationwide Ins. Cos.* (1984, CA4 NC) 734 F2d 419, 33 CCH EPD ¶ 14048, 1984-1 CCH Trade Cases ¶ 65795

Evidence supported court's finding that mortgage lender did not engage in discrimination in financing of housing under 42 USCS § 3605, where evidence submitted showed large number of mortgage loans granted in white areas but not minority areas, but borrower failed to present evidence regarding how many applications were received and rejected in particular geographical areas, and statement by bank officer that urban renewal area could not afford proposed home in \$50,000 range reflected lender's legitimate financial concern regarding market value of property and likelihood that property would retain adequate value over term of loan. *Cartwright v American Sav. & Loan Assn.* (1989, CA7 Ind) 880 F2d 912.

Fair Housing Act is applicable to property and casualty insurance written or withheld in connection with purchase of real estate. *NAACP v American Family Mut. Ins. Co.* (1992, CA7 Wis) 978 F2d 287, 24 FR Serv 3d 278, reh. en banc, den (CA7) 1992 US App LEXIS 32171 and petition for certiorari filed (Mar 8, 1994).

Developer stated claim under Fair Housing Act where he alleged that mortgage lenders refused because of ethnic and racial bias to provide long-term mortgage financing for 7 apartment buildings in predominantly minority neighborhoods. *Ring v First Interstate Mortg. Inc.* (1993, CA5 Mo) 984 F2d 924

Minority homebuyers' claim against area planning association for violating 42 USCS § 3605 is dismissed, where planning association makes no commercial real estate loans

and in fact has no connection whatsoever in financing of real estate, since § 3605 deals only with associations whose business consists in whole or part in making commercial real estate loans. *Stapoe v Beverly Area Planning Assn.* (1987, ND Ill) 674 F Supp 1313.

Claim that mortgage lender engaged in discriminatory practice of redlining survives summary judgment, where plaintiffs presented proof that (1) creditworthy buyers submitted application for loan to purchase housing located in minority neighborhood and were rejected for questionable reasons, and (2) lender rejected higher percentage of conventional mortgage loan applications originating from integrated or minority neighborhoods than from white neighborhoods over 6-year period, because plaintiffs have presented evidence from which reasonable minds could find that lender's actions were motivated by intent to discriminate. *Old West End Assn. v Buckeye Federal Sav. & Loan* (1987, ND Ohio) 675 F Supp 1100.

Discrimination and conspiracy claims against mortgage loan arranger must fail, even though arranger which assisted in completion of mortgage loan application and transmission to lender affirmed lender's allegedly discriminatory policy which led to rejection of plaintiffs' application, because discriminatory policy was lender's and loan was rejected by lender, not arranger. *Old West End Assn. v Buckeye Federal Sav. & Loan* (1987, ND Ohio) 675 F Supp 1100.

Summary judgment denying black couple's 42 USCS § 3605 claim is inappropriate, where couple has presented evidence that their mortgage loan application was rejected even though they were qualified for loan requested, because conflicting inferences from loan file data showing similarly situated applicants of other races both rejected and accepted leave open question as to whether couple was denied loan on basis of race. *Watson v Pathway Financial* (1988, ND Ill) 702 F Supp 186.

§ 3606. Discrimination in the provision of brokerage services

After December 31, 1968, it shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status, or national origin.

(As amended Sept. 13, 1988, P. L. 100-430, § 6(b)(1), 102 Stat. 1622.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Amendments:

1988, Act Sept. 13, 1988 (effective on the 180th day beginning after enactment, as provided by § 13(a) of such Act, which appears as 42 USCS § 3601 note), inserted "handicap, familial status."

RESEARCH GUIDE

Federal Procedure I. Ed:

in *Fed Proc. L. Ed. Civil Rights* § 11:212, 357, 358, 360, 501

INTERPRETIVE NOTES AND DECISIONS

Black female not hired for job of leasing consultant may pursue 42 USCS § 3606 claim against real estate management corporation, whose complaint alleges corporation policy to exclude blacks from positions where they might lease property to other blacks, because broad language of § 3606 implies right of action for denying employment with

housing rental firm on basis of race, given antidiscriminatory aims of Fair Housing Act (42 USCS §§ 3601 et seq.) and nature of "back door" scheme alleged, which would deny blacks' access to rental housing. *Favors v MAQ Management Corp.* (1990, MD Ga) 731 F Supp 941.

§ 3607. Religious organization or private club exemption

(a) Nothing in this title shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this title prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a

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FAIR HOUSING

42 USCS § 3607

commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(b)(1) Nothing in this title limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this title regarding familial status apply with respect to housing for older persons.

(2) As used in this section, "housing for older persons" means housing—

(A) provided under any State or Federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or

(B) intended for, and solely occupied by, persons 62 years of age or older; or

(C) intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Secretary shall develop regulations which require at least the following factors:

(i) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

(ii) that at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and

(iii) the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

(3) Housing shall not fail to meet the requirements for housing for older persons by reason of:

(A) persons residing in such housing as of the date of enactment of this Act who do not meet the age requirements of subsections (2)(B) or (C); Provided, That new occupants of such housing meet the age requirements of subsections (2)(B) or (C); or

(B) unoccupied units; Provided, That such units are reserved for occupancy by persons who meet the age requirements of subsections (2)(B) or (C).

(4) Nothing in this title prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(As amended Sept. 13, 1988, P. L. 100-430, § 5(d), 102 Stat. 1623.)

Please Note

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Amendments:

1988. Act Sept. 13, 1988 (effective on the 180th day beginning after enactment, as provided by § 13(a) of such Act, which appears as 42 USCS § 3601 note) designated the existing provisions as subsec. (a); and added subsec. (b).

Other provisions:

Regulations clarifying the term "housing for older persons", Act Oct. 28, 1992, P. L. 102-550, Title IX, Subtitle A, § 919, 106 Stat. 3883, provides: "The Secretary of Housing and Urban Development shall, not later than 180 days after the date of the enactment of this Act, make rules defining what are 'significant facilities and services' especially designed to meet the physical or social needs of older persons' required under section 3607(b)(2) of the Fair Housing Act [subsec. (b)(2) of this section] to meet the definition of the term 'housing for older persons' in such section."

INTERPRETIVE NOTES AND DECISIONS

Nonprofit organization was not exempt under 42 USCS § 3607 as religious organization or private club, where although Catholic Church approved of organization of summer bungalows and permitted religious services on premises, there was no formal or legal relationship with Church, and where private club exemption did not apply to sale of bungalows but only exempted rental or occupancy of lodgings. United States v. Columbus Country Club (1990, CA 1 Pa) 913 F2d 977

Ordinance restricting to 4 the maximum number of unrelated occupants living in homes zoned for single families did not violate FHA, since ordinance fell within statutory exemption under 42 USCS § 3607(b)(1) permitting reasonable maximum occupancy restrictions that apply equally to all occupants, notwithstanding claim that ordinance was unreasonable because it had disparate impact on handicapped individuals. Eltholt v. Arbens (1992, CA 11 Ga) 960 F2d 973.

Although subdivision homeowners' association was eligible for older persons' exemption under 42 USCS § 3607, association did not satisfy policies and procedure prong of statutory test for exemption, where association had not instituted age-verification procedures evidencing intent to provide housing for persons 55 years of age and older prior to taking action against younger homeowners with children, rule against residency by those under 16 years of age was not sufficient basis to qualify subdivision for older persons exemption, association board failed to develop credible process for enforcing bylaws, and secretary of association testified that she did not believe that under 55 restriction bylaw amendment was enforceable, and association did not enforce it. Massaro v. Mainland Section 1 &

1 Civic Ass'n (1993, CA 11 Fla) 3 F3d 1473, 7 FLW Fed C 387.

For purposes of 42 USCS § 3604 action alleging discrimination on basis of familial status after trailer park owners raised rentals and sales to persons with children and to young adults, "older persons" exemption in § 3607(b)(2)(C) was affirmative defense and could not be basis for challenge to standing of plaintiffs, and evidence was insufficient to meet "older persons" exemption, where only 78.9 percent of units were occupied by older persons. Hosker v. Weathers (1993, CA 6 Ohio) 990 F2d 913, 25 FR Serv Jd 988.

Mobile home park operators are not entitled to 42 USCS § 3607(b)(2) exemption from general prohibition of discrimination on basis of familial status, where operators' rules prohibit residence by children in their mobile home parks, because operators failed to prove that their parks (1) provide "significant facilities and services specifically designed to meet physical or social needs of older persons, or (2) that it is not practicable, due to high cost or otherwise, for them to provide such facilities and services. Park Place Home Brokers v. P-K Mobile Home Park (1991, ND Ohio) 773 F Supp 46.

Homeowners with small children lose challenge to residential subdivision restriction barring children under 16 years of age from residing in community, where age verification procedures verified that over 90 percent of houses in community had at least one resident who was over 55 years of age, association demonstrated numerous programs and facilities designed for elderly, and passage and enforcement of bylaws showed intent to provide housing for older persons, because community qualifies as "housing for older

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- Public and common areas must be accessible to persons with disabilities
- Doors and hallways must be wide enough for wheelchairs
- All units must have:
  - An accessible route into and through the unit
  - Accessible light switches, electrical outlets, thermostats and other environmental controls
  - Reinforced bathroom walls to allow later installation of grab bars and
  - Kitchens and bathrooms that can be used by people in wheelchairs.

If a building with four or more units has no elevator and will be ready for first occupancy after March 13, 1991, these standards apply to ground floor units.

These requirements for new buildings do not replace any more stringent standards in State or local law.

## Housing Opportunities For Families

Unless a building or community qualifies as housing for older persons, it may not discriminate based on familial status. That is, it may not discriminate against families in which one or more children under 18 live with:

- A parent
- A person who has legal custody of the child or children or
- The designee of the parent or legal custodian, with the parent or custodian's written permission.

Familial status protection also applies to pregnant women and anyone securing legal custody of a child under 18.

Exemption: Housing for older persons is exempt from the prohibition against familial status discrimination if:

- The HUD Secretary has determined that it is specifically designed for and occupied by elderly persons under a Federal, State or local government program or
- It is occupied solely by persons who are 62 or older or
- It houses at least one person who is 55 or older in at least 80 percent of the occupied units; has significant services and facilities for older persons; and adheres to a published policy statement that demonstrates an intent to house persons who are 55 or older. The requirement for significant services and facilities is waived if providing them is not practicable and the housing is necessary to provide important housing opportunities for older persons.

A transition period permits residents on or before September 13, 1988, to continue living in the housing, regardless of their age, without interfering with the exemption.

## If You Think Your Rights Have Been Violated

HUD is ready to help with any problem of housing discrimination. If you think your rights have been violated, you may fill out a Housing Discrimination Complaint form (which will be available for downloading soon!), write HUD a letter, or telephone the HUD Hotline. You have one year after an alleged violation to file a complaint with HUD, but you should file it as soon as possible.

### What to Tell HUD:

- Your name and address
- The name and address of the person your complaint is against (the respondent)
- The address or other identification of the housing involved
- A short description of the alleged violation (the event that caused you to believe your rights were violated)
- The date(s) of the alleged violation

# HASTINGS LAW OFFICE, P.A.

ATTORNEYS AND COUNSELLORS AT LAW

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DAVID R. HASTINGS 1817-1896  
EDWARD E. HASTINGS 1875-1939  
HUGH W. HASTINGS 1914-1937

DAVID R. HASTINGS II  
PETER G. HASTINGS  
DAVID R. HASTINGS III  
PETER J. MALIA, JR.  
JOHN LISNIK, JR.

## MEMORANDUM VIA FAX AND MAIL

**TO:** Thomas Irving, Town Planner  
**FROM:** Peter J. Malia, Jr., Esquire   
**DATE:** January 15, 2001  
**RE:** Petitioned Zoning Article on Senior Housing Unit

I have reviewed the letter to yourself from Stephen Hallett of NCRV, LLC, regarding the constitutionality of the proposed definition for "Senior Housing Unit." I have also reviewed the documents provided with that letter, and researched the constitutionality issue in both Federal and State law.

As a result, I am not in a position to alter or amend our concerns regarding the constitutionality of this proposed warrant article as set forth in the letter from Peter Hastings to yourself dated January 10, 2001. Please call me if you wish to discuss this further.

Furthermore, you had inquired as to whether the Town was obligated to place this Article, the constitutionality of which is in question, on the ballot. In my opinion, having been properly petitioned, the Town does have an obligation to place this Article on the ballot despite the questions surrounding its legality.

HASTINGS LAW OFFICE, P.A.  
P.O. BOX 290 - 71 MAIN STREET  
FRYEBURG, ME 04037

Phone: 207/935-2061

Fax Number: 1-(207) 935-3939

FAX COVER SHEET

DATE: January 15, 2001

TO: Thomas Irving

FAX NO. 1-603-447-1348

FROM: Peter J. Malia, Jr., Esq.  
HASTINGS LAW OFFICE, P.A.  
P.O. Box 290 - 71 Main Street  
Fryeburg, Maine 04037  
Tele: 1 (207) 935-2061

RE: Petitioned Zoning Article on Senior Housing Unit

Hard copy to follow:

Including this cover page, we are transmitting 2 pages.

COMMENTS:

If transmission is incomplete, please call 1-(207) 935-2061 and ask for assistance.

\*\*\*\*\*  
This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this message in error, please notify us immediately by telephone and return the original message to us at the above address via the U.S. Postal Service. Thank you.  
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6

Proposed Amendment to §147-12.2

**147-12.2. Industrial-2 District.**

- A. Permitted Uses. Any lot may be used for any uses permitted in the Business District, but excluding residential dwelling, residential uses, hotels, motels, facilities, or retail stores with interior gross floor sales area over 5,000 sq. Ft. in size. *One Caretakers residence shall be permitted as accessory to a non-residential use.* Residential dwellings and residential uses are permitted in the Whirelaw Subdivision, as shown on 1997 Tax Map 5-10, Lots 12-39-1 through 12-39-32.

pol- V UUN

## PETITION FOR ZONING AMENDMENT

The undersigned, being twenty-five (25) or more registered voters in the Town of Conway, New Hampshire, hereby petition pursuant to the provisions of RSA 675:4 that the following article to amend the Conway Zoning Ordinance be submitted to the voters of the Town of Conway at the annual meeting to be held in March 2001.

### **I. Adopt New Definition Chapter 147, Zoning Ordinance:**

#### **“SENIOR HOUSING UNIT”**

A dwelling, or portion thereof capable of providing living quarters limited to two (2) adults per unit, having a minimum age of sixty two (62) years old. Said dwelling unit(s) must be within a single building having at least twenty-five (25) overall separate units under the same roof. Said building must provide for a commercial kitchen and common dining facility as a minimum. Said **“SENIOR HOUSING UNITS”** shall be exempt from provisions under the existing definition of “Residential Unit”, which define a unit as providing a kitchen. **“SENIOR HOUSING UNITS”** within such an aforementioned age restricted “Retirement Housing Complex”, shall be allowed to have separate individual kitchens. For density purposes the overall building housing all said individual dwelling units within said building, under the same roof will be considered one unit.

cnlru- L 01/16/01 / 3:00p.m.