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[HISTORY: Adopted by the Town of Conway 3-14-1989 by Ballot Vote, Art. 15; amended 1992 TM, Art. 15; 1996 TM, Art. 13; 1999 TM, Art. 9; 2013 TM, Art. 31. Subsequent amendments noted where applicable.]

PREAMBLE

This CHARTER applies to all of the TOWN OF CONWAY as originally laid out, in whatever form, division, or parts it is now recognized by, and retains all of the rights granted to the Town of Conway by the General Assembly on October 1, 1765, and all rights subsequently granted to the Town by the State of New Hampshire.

Under the authority granted by the Constitution of the State of New Hampshire and the General Court, the voters of Conway hereby adopt a new Charter. Adoption is made for the following purposes:

- To advance home rule and to secure as vested rights for the Town and its people all powers possible under the laws of this state and nation;
- To clarify the structure and organization of Town Government;
- To define the duties and responsibilities of Town Officers and officials;
- To establish procedural requirements for the proper transaction of Town business;
- To provide for the citizens of Conway a unified and more convenient reference than is available with respect to the basic laws affecting local government.

PART I
BILL OF PARTICULARS

I. RIGHTS OF THE COMMUNITY

Under this Home Rule Charter the citizens of Conway shall forever retain sovereign control, and a responsibility subject only to the preemption of the Constitutions and Laws of the United States and New Hampshire over all areas of commerce and necessities of an ever modernizing society which without limitation of the foregoing includes the following:

- A. Public safety including police, fire, rescue, civil defense, and the local militia.
- B. Public transportation including roads, bridges, tunnels, buses, railroads, taxis, animal drawn carriages, navigable waterways, dockings, moorings and airports.
- C. Public lands including parks and recreation areas, cemeteries and monuments, Town forests, marshes, beaches, rivers and streams, lakes and ponds, and any and all public land and buildings under Town deed or control.
- D. Education and cultural institutions including schools, libraries, and historical preservation.
- E. Public health including rubbish, sewerage, hazardous waste and materials, radioactive waste and materials, disease control and litter control.
- F. Public utilities.
- G. Social evils including gambling, liquor, drugs and prostitution.

II. CHARTER CONSTRUCTION, SEVERABILITY, RESERVATION OF POWERS

Authority for this Home Rule Charter is granted under Part I, Article 39 of the New Hampshire Constitution and the New Hampshire Revised Statutes Annotated Chapter 49-B. The powers of the Town under this Charter shall be interpreted liberally in favor of the town and specific mention of particular powers and rights in the Charter shall not be interpreted as limiting in any way the general power stated in this Charter. SUBJECT only to such limitations as may be imposed by State Constitution and General Laws, the Town of Conway shall have all powers possible for a Town to have as fully and completely as though they were specifically stated in this Charter.

Nothing in this Charter shall be so interpreted in any way to limit rights, powers, and functions conferred upon the citizens. The Town of Conway and the Selectmen of said Town, by general or special enactments, and the rights, powers and functions conferred by this Charter shall be cumulative and in addition to the provisions of such general or special enactments.

If any provisions of the Charter are held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstances is held invalid, the application of this Charter and its provisions to other persons and circumstances shall not be affected thereby.

III. INTERPRETATION OF POWERS OF LEGISLATIVE BODY

Where questions arise concerning the power of the Town Meeting versus the powers of other bodies of Conway Town Government, the intent of this Charter is that a liberal interpretation shall be given to the powers of the Town Meeting.

**PART II
LEGISLATIVE FORM OF GOVERNMENT**

I. TOWN MEETING AUTHORITY

The form of government provided by this Charter shall be known as the Selectmen-Official Ballot referendum Town Meeting (SB2) with the Municipal Budget Act. The first session of the Annual Town Meeting, which shall consist of explanation, discussion, and debate of each Warrant Article, shall be held between the first and second Saturdays following the last Monday in February, and the second session, allowing official ballot voting on all Warrant Articles, shall take place on the second Tuesday of April. All registered voters of the Town shall be members of the legislative body eligible to vote on matters that come before it.

II. DATE AND BUSINESS OF ANNUAL TOWN MEETING

The date of the Annual Town Meeting shall be as provided by state law.

The business of the meeting shall be to elect officials, to vote on Articles in the posted Warrant, to enact a budget, and to act on any other business that may lawfully come before the meeting.

III. RULES OF TOWN MEETING

Except where they are specified by State Statute and this Charter, rules governing the structure and conduct of Town Meeting shall be Robert's Rules of Order.

IV. MODERATOR

A Moderator shall be elected for a two year term by a plurality vote to preside over sessions of Town Meetings and state elections.

V. PREPARATION OF WARRANT AND ANNUAL REPORT

As provided for by Statute, Town Charter and By-Laws, the Selectmen shall direct the preparation of a Warrant for the Town Meeting and an Annual Report that shall be a complete record of all important Town business for the previous year. The Selectmen shall, where consistent with legal requirements and if deemed appropriate by them, consolidate warrant articles to be acted on by the legislative body at Town Meeting to expedite matters before the legislative body.

VI. PETITIONER'S WARRANT ARTICLES

Petitioner's Warrant Articles shall be submitted to the Selectmen in written form. Except for Petitioner's Warrant Articles pertaining to Planning Board and Zoning matters which shall be controlled by the applicable State Statutes, on written application of twenty five (25) or more voters or two percent (2%) of the voters in the Town (whichever is fewer) per RSA 39:3, presented to the Selectmen at least 35 days before the day prescribed for an annual or

biannual meeting, the Selectmen shall insert in their Warrant for such meeting the petitioned article(s).

VII. BUDGET PREPARATION

As provided for by the Municipal Budget Act, all monied Articles along with the Town Budget are submitted for review and recommendation to the Budget Committee.

VIII. CLOSING AND POSTING OF WARRANT

The Warrant for the Annual Town Meeting shall be closed to the insertion of Petitioned Warrant Articles on the fifth (5th) Tuesday before the day prescribed for an Annual Town Meeting (RSA 39:3), except the Selectmen may originate and insert Articles any time prior to the posting of the Warrant. The Warrant must be posted and copies available to the general public on or before the last Monday in February per RSA 40:13, II-b(d).

IX. SPECIAL TOWN MEETING

A Special Town Meeting may be called by the Selectmen at their discretion or shall be called by petition of five percent (5%) of the registered voters of the Town presented to the Selectmen, not less than sixty (60) days before the next annual meeting per RSA 39:3. Adjourned sessions shall reconvene within the designated number of days set by a majority vote of Town Meeting.

X. ELECTION OF OFFICIALS

Any qualified voter of the Town may run for office by filing a Declaration of Candidacy with the Town Clerk during the filing period established by State Statute.

XI. CHECKLIST, BALLOT AND VOTING

The Town shall elect in accordance with State Statutes and Town By-Laws, Supervisors of the Checklist, who shall perform all legal functions of that office, including registering eligible voters and maintaining an up-to-date checklist.

All elections for municipal offices and statutory ballot questions shall be by "Australian Ballot" in accordance with state and federal laws.

The Town hereby adopts the nonpartisan ballot system for the election of Town officers in accordance with RSA 669:13.¹

The Town hereby adopts absentee voting for all future Town Meetings. Said absentee voting shall cover the election of officers and ballot articles only.²

1. Editor's Note: Added to Charter during codification; authority originally enacted 3-9-1954 ATM by Art. 14.

2. Editor's Note: Added to Charter during codification; authority originally enacted 3-4-1975 ATM by Art. 6.

XII. VACANCIES

When a vacancy occurs in any Town office, unless otherwise provided for by Statute, the Board of Selectmen may appoint someone to serve in the vacancy until the next Annual Town Meeting.

When a vacancy occurs on the Board of Selectmen, the Selectmen may appoint a replacement according to the method used in filling other vacancies. The person so appointed shall serve until the next Annual Town Meeting when the voters of the Town shall then elect a Selectman to serve for the balance of the unexpired term, if applicable.

XIII. CONFLICT OF INTEREST

No Conway Town official or employee, elected or appointed, may engage in any Town activity other than normal duties in which they may stand to profit monetarily.

Any elected or appointed officer or employee of the Town who has a financial interest, direct or indirect, in any planned or existing contract, job, work or service to be performed for the Town or voluntary sale to the Town of any land, materials, supplies, equipment or other property shall make full disclosure of such interest to the Board, Commission or Town Manager to or by which the officer or employee is elected, appointed or employed prior to the Town's deliberating on any such matter or transaction. The person so financially interested in such matters or transactions shall not vote in any of the Board of Selectmen's consideration of such matter or transaction or any other town consideration of such matter or transaction, but this shall not prohibit such person from providing information as may be appropriate to the due deliberation and consideration of such matter.

No elected or appointed officer or employee of the Town shall solicit or accept any gift or gratuity which could, in any manner, be construed to affect or influence the performance of his/her official duties.

Violations of any of the foregoing provisions may constitute a conflict of interest and subject the official or employee to removal proceedings and/or proceedings under the recall provisions of this Charter.

XIV. FORFEITURE OF OFFICE

Any person while in Town office convicted of a Class A felony in New Hampshire or its equivalent under the laws of any other State or Federal Law shall forfeit such office forthwith.

ADMINISTRATIVE**XV. BOARD OF SELECTMEN****A. POWERS**

The executive and administrative arm of Town Government, except where provided otherwise by this Charter, or general law, shall be entrusted to and exercised by a Board of five (5) Selectmen, elected at-large by plurality vote to staggered three (3) year terms.

The Board shall discharge all duties conferred or imposed upon it by law and this Charter.

B. ORGANIZATION

Within seven (7) days of the Annual Town Election, the Board shall hold an organizational meeting. The Board will elect a Chairperson and a Vice-Chairperson from among their Board and appoint a Secretary to the Board for the purposes of keeping a record of all Board meetings. The Chairperson shall be recognized as the head of the Town for all ceremonial purposes, and shall preside over meetings of the Board. In the absence of the Chairperson all of the duties will be assumed by the Vice-Chairperson.

At the organizational meeting, the Board shall adopt rules of order and fix the time and place of regular meetings. Meetings shall be held on a regular meeting date unless on a holiday in which case no regular meeting shall be required. Voting on all matters, except procedural, shall be by roll call unless there is a unanimous agreement.

Special meetings of the Board may be called at any time by the Chairperson, or any other three (3) members. Notice of any special meeting shall be given to all members and public notice given as statute requires, except for an emergency meeting.

The Minutes of each meeting shall be approved by the Board and the official copy authenticated by the signature of the Secretary of the Board or its Chairperson. Minutes of the meeting shall be made available for public inspection as per Statute required. The Board must keep an official record of its proceedings which, except for nonpublic sessions as covered by RSA 91-A:3, shall be open for public inspection.

XVI. TOWN MANAGER

The Town shall have a Town Manager having powers and responsibilities pursuant to those enumerated in RSA Ch. 37 but subject to the limitations established by this Charter, existing and future adopted applicable provisions of the Conway Code as may be amended from time to time, and the powers reserved to or as may be established by the Town hereafter. The Town Manager shall be under written contract to the Town having a term as thereunder established but not to exceed five (5) years. Nothing shall prohibit successive contracts with a Town manager provided the term shall not exceed five (5) years. Said contract shall be negotiated, or renegotiated as applicable, between the Town Manager and the Selectmen. The Selectmen shall establish an office for same.

XVII. TOWN CLERK/TAX COLLECTOR; DEPUTY TAX COLLECTOR

One person shall be chosen Town Clerk/Tax Collector in a manner set forth in the State Statute and shall perform all of the duties required by New Hampshire Law and shall furnish bond as required, provided the Town shall pay the cost thereof. The term of office shall be three (3) years. The Selectmen shall establish an office for same.

In accordance with RSA 41:38, the Tax Collector is authorized to appoint a Deputy Tax Collector, with the approval of the Selectmen, who shall be sworn and have the powers of the Tax Collector.³

XVIII. TOWN TREASURER AND DEPUTY TOWN TREASURER

The Town Treasurer shall be chosen in a manner set forth in the State Statute and shall perform all the duties required by New Hampshire Law and shall furnish bond as required, provided the Town shall pay the cost thereof. The term of office shall be three (3) years. The Treasurer shall also perform the following duties: Keep Selectmen's payment books and receive all monies. The Town Treasurer shall keep all records at appropriate offices designated by the Selectmen.

In accordance with RSA 41:29-a, the Town Treasurer, with the approval of the Board of Selectmen, may appoint a Deputy Treasurer, who shall be sworn and have the powers of the Treasurer. The Deputy Treasurer may be removed at the pleasure of the Treasurer.⁴

XIX. TRUSTEES OF TRUST FUND

Three (3) Trustees of the Trust Funds shall be elected in accordance with State Statute and hold and exercise all duties, rights and obligations of said office under New Hampshire law.

XX. LIBRARY TRUSTEES

Seven (7) Library Trustees shall be elected in accordance with State Statutes and hold and exercise all duties, rights and obligations of said office under New Hampshire law.

XXI. BUDGET COMMITTEE

The Budget Committee shall consist of twelve (12) Budget Committee members to be elected in accordance with State Statutes plus one (1) member chosen by the School Board of the School District for the Town, and one (1) member of the Board of Commissioners of each Village District or Precinct wholly within the Town to be designated respectively by the Board of Commissioners thereof, and one (1) member of the Board of Selectmen to be designated by said Board with all members to hold and exercise all duties, rights and obligations of said office under New Hampshire law. Non-elected members of the Budget Committee may be represented at any meeting by an alternate School Board member, Board of Commissioners member or Board of Selectmen member designated by the respective Board with said alternate to serve with the same authority as the chosen member. Qualifications for office, term and vacancies of members of the Budget Committee shall be pursuant to State Statute.

3. Editor's Note: Added to Charter during codification; authority originally enacted 3-11-1980 ATM by Art. 31.

4. Editor's Note: Added to Charter during codification; authority originally enacted 3-10-1981 ATM by Art. 42.

XXII. COMMISSIONS AND BOARDS

The Town shall have the following commissions and boards which, from time to time, may be consolidated, enlarged or abolished by vote at Town Meeting consistent with State Statute where applicable. Nothing shall prohibit the Town at any regular or special meeting from establishing additional commissions and boards of the Town having powers and duties invested in them on their establishment. The powers and duties of such additional, consolidated and/or enlarged commissions and boards under their enactment shall be construed as a by-law or ordinance modifying, where applicable, the powers and duties of the Town Manager as otherwise allowed and provided under RSA 37:6 VII, as amended from time to time.

A. SCHOULER PARK COMMISSION

The Schouler Park Commission shall review and supervise as directed and authorized by the Board of Selectmen from time to time, the operation and maintenance of the Schouler Park in North Conway Village. The Schouler Park Commission shall consist of three (3) voting members to be appointed by the Selectmen for staggered terms of three (3) years each.

B. WASHINGTON STREET PARK COMMISSION

The Washington Street Park Commission shall review and supervise as directed and authorized by the Board of Selectmen from time to time, the operation and maintenance of Washington Street Park in Conway Village. The Washington Street Park Commission shall consist of three (3) voting members to be appointed by the Selectmen for staggered terms of three (3) years each.

C. CONWAY CONSERVATION COMMISSION

The Conway Conservation Commission shall be invested with the powers and duties set forth in RSA Ch. 36-A, as amended, and shall cooperate with the Board of Selectmen from time to time, in identifying Town properties and rights which shall be managed and controlled by this commission. The Conway Conservation Commission shall consist of not less than three (3) nor more than six (6) voting members plus a member designated from the Board of Selectmen who shall be an ex officio voting member. The six (6) appointed members shall serve staggered terms of three (3) years each. One (1) member of the Conservation Commission may also serve on the Conway Planning Board. In addition, the Selectmen may appoint up to seven (7) alternate members for staggered terms of three (3) years each provided the Selectmen shall appoint from among their number an alternate to serve in the absence of the Selectman acting as ex officio member of the Conservation Commission. On absence of any Conservation Commission member, the Chairperson of the Conservation Commission may appoint an alternate to serve in place of the absent member provided the Selectmen's alternate shall only be appointed to act for the absent Selectmen acting as ex officio member of the Conservation Commission. Any members so appointed may, after public hearing, if requested, be removed for cause by the Board of Selectmen.

In accordance with the provisions of RSA 36-A:5, a Conservation Commission Fund is established, in which the appropriations for the Conservation Commission will be allowed to accumulate from year to year.⁵

In accordance with the provisions of RSA 36-A:4-a, I(b), the Conservation Commission may expend funds for contributions to "qualified organizations," as defined in Section 170(h)(3) of the Internal Revenue Code of 1986, for the purchase of property interests, or facilitating transactions related thereto, where the property interest is to be held by the qualified organization and the Town will retain no interest in the property.⁶

D. HISTORIC DISTRICT COMMISSION⁷

Pursuant to RSA 673:4, an Historic District Commission consisting of seven (7) members to be appointed by the Selectmen is established.

E. HOUSING COMMISSION⁸

The New Hampshire Housing Commission is authorized to operate in the Town of Conway. Said New Hampshire Housing Commission is authorized to sponsor a project, under Section 8 of the United States Housing Act of 1937, as amended, for any of the following dwelling accommodations or a combination thereof: existing standard housing, rehabilitated housing, newly constructed housing, the total amount of the foregoing not to exceed fifty (50) dwelling units.

F. CONWAY PLANNING BOARD⁹

The Conway Planning Board has been established pursuant to RSA 673:1 and shall continue as now invested with the same powers and duties which shall include, but not in limitation of the foregoing, all powers and duties set forth in RSA 674:1 (planning), RSA 674:35 (subdivision), and RSA 674:43 (site plan) and 674:5-8 (capital improvements) as each may be amended from time to time. The Planning Board shall consist of seven (7) voting members with one (1) member to be one (1) designated Selectman as a voting ex officio member per RSA 673:2 II (a) and six (6) voting members to be elected by the Town per RSA 673:2 II (b) and (c) both as may be amended from time to time. In addition, the Planning Board shall appoint up to five (5) alternate members for terms of three (3) years each provided the Selectmen shall appoint from among their number an alternate to serve in the absence of the Selectman acting as ex officio member of the Planning Board. On absence of any Planning Board member, the Chairperson of the Planning Board may appoint an alternate to serve in place of the absent member provided the Selectmen's alternate shall only be appointed to act for the absent Selectmen acting as ex officio member of the Planning Board. In all respects, the Planning Board shall act pursuant to State Statute. Existing regulations and bylaws of the Planning Board shall

5. Editor's Note: Added to Charter during codification; authority originally enacted 3-8-1977 ATM by Art. 40.

6. Editor's Note: Added to Charter during codification; authority originally enacted 2009 ATM by Art. 23.

7. Editor's Note: Added to Charter during codification; authority originally enacted 3-11-1986 ATM by Art. 25.

8. Editor's Note: Added to Charter during codification; authority originally enacted as last amended 9-10-1979.

9. Editor's Note: Amended during codification.

remain in full force and effect but may be amended from time to time hereafter by the Planning Board.

1. Election of members. Pursuant to RSA 36:4, as amended, the Town adopts the procedure to elect the members of the Conway Planning Board, consisting of seven members, at the next Annual Town Meeting.¹⁰
2. Approval of subdivisions. The Planning Board is authorized to approve or disapprove, in its discretion, new subdivisions as provided in Chapter 36, §§ 19 through 29 inclusive, of the New Hampshire Revised Statutes Annotated 1955.¹¹
3. Approval of plats affecting streets and parks. The Planning Board is authorized to approve or disapprove, in its discretion, plats showing streets, or widening thereof, or parks (to adopt and administer subdivision regulations).¹²
4. Approval of nonresidential and multifamily development site plans.¹³
 - a. The Planning Board is authorized to review and approve or disapprove site plans for the development of tracts for nonresidential uses and multifamily dwelling units, whether or not such development includes a subdivision or resubdivision of the site, as provided by RSA 674:43 et seq., as amended.
 - b. The Planning Board is authorized to review and approve or disapprove site plans for the development of nonresidential uses and multifamily dwelling units consisting of more than two dwelling units and may review and approve or disapprove site plans for the development or change or expansion of use of tracts for nonresidential uses or for multifamily dwelling units which are defined as structures containing more than two dwelling units, all pursuant to RSA 674:43.

G. ZONING BOARD OF ADJUSTMENT

The Zoning Board of Adjustment has been established pursuant to State Statute and shall continue as now invested with the same powers and duties as designated by State Statute from time to time. The existing bylaws controlling the procedural operation of the Zoning Board of Adjustment shall remain in full force and effect but may be amended from time to time hereafter by the Zoning Board of Adjustment. The Zoning Board of Adjustment shall consist of five (5) voting members who shall be appointed by the Selectmen for staggered terms of three (3) years each. On absence of any Zoning Board of Adjustment regular member, the Chairperson may appoint an alternate member to act in the place of the absent regular member.

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10. Editor's Note: The authority for this subsection was originally enacted 5-25-1957 ATM by Art. 1; amended in its entirety 3-31-1979 ATM by Art. 5; 3-11-1980 ATM by Art. 4. RSA 36:4 was repealed 1983, 447:5, IV, effective 1-1-1984. See now RSA 673:2.
 11. Editor's Note: The authority for this subsection was originally enacted 3-10-1970 ATM by Art. 16. See now RSA 674:35 et seq.; and RSA 674:42, 675:6, 676:4, 676:16 and 676:18.
 12. Editor's Note: The authority for this subsection was originally enacted 3-13-1979 ATM by Art. 6.
 13. Editor's Note: The authority for this subsection was originally enacted 3-10-1982 ATM by Art. 28; amended 3-14-1989 ATM by Art. 35.

H. POLICE COMMISSION¹⁴

The Police Commission has been established for the Town of Conway pursuant to the General Laws of New Hampshire for 1969 Chapter 570 and as adopted by the Town at its Annual Town Meeting of March 12, 1968, and shall continue as now invested with the same powers and duties as thereunder enumerated, provided nothing hereunder shall prohibit amendment thereof from time to time by the State of New Hampshire and the Town of Conway, as applicable.

There shall be a Police Commission for the Town of Conway consisting of three persons elected as hereinafter provided. Said Commissioners shall have been residents of said Town for at least five years immediately preceding the date of their election and shall not hold nor be candidates for any other political office of the Town of Conway during their term on said Commission. There shall be elected at each annual meeting one Commissioner for a term of three years. Any vacancy in the Commission shall be filled by appointment by the remaining members of the Commission. Such appointee shall hold office until the next annual meeting of the Town.

Powers and duties.

1. The Police Commission shall appoint such police officers, constables and superior officers as it may, in its judgment, deem necessary and fix their compensation.
2. Said Commissioners shall have full authority to make and enforce all rules and regulations for the government of the police force in the Town of Conway.
3. Said Commissioners shall have authority to remove any officer at any time for just cause and after due hearing, which cause shall be specified in the order of removal, except that special police officers appointed and designated as such shall serve at the pleasure of the Commission and may be removed for other than just cause.

Compensation. The salary for each of said Police Commissioners shall be \$100 per year.

XXIII. COMPENSATION AND RETIREMENT

Compensation of all Town Officials, elected or appointed, and Town Employees shall be as voted by the Town, and if no salaries or other compensation have been determined by the Town, they shall be determined by the Board of Selectmen who may delegate this responsibility hereunder to its Town Manager or others as appropriate. Nothing hereunder shall be construed to limit the authority of the Conway Police Commission or other Commissions now or hereafter established by express vote of the Town, from determining salaries and compensation of its employees.

Effective March 1, 1971, officers and employees of the Town of Conway shall be included in the New Hampshire Retirement System, as provided for by RSA Ch. 100-A.¹⁵

14. Editor's Note: Amended during codification.

15. Editor's Note: Added to Charter during codification; authority originally enacted 3-9-1971 by resolution.

PART III
GENERAL PROVISIONS

I. NAME AND CORPORATE EXISTENCE RETAINED

The Inhabitants of the Town of Conway, within the corporate limits now established, shall continue to be a municipal corporation by the official name of the "Town of Conway".

The Town may by its By-Laws adopt official seals, flags or other symbols of the community.

II. ADOPTION AND ENFORCEMENT OF ORDINANCES AND BY-LAWS

Authority for the enactment of all Ordinances and By-Laws authorized to be enacted by the municipality shall be vested in the Town Meeting except for emergency Ordinances and By-Laws, as provided for in the next section. Except for emergency Ordinances and By-Laws, or those with dates specified by Statute, Ordinances and By-Laws, shall become effective on adoption unless otherwise specified therein. The Selectmen will prosecute any person violating Ordinances or By-Laws through the Town Manager, Town attorney or police officers who for such purposes shall be informing officers and will maintain actions to restrain actual or threatened violations of the same. The establishment of any fine or penalty shall be by Ordinance. Notwithstanding the above, RSA 41:11 authorizes the Board of Selectmen to adopt regulations to regulate highways not otherwise regulated by the commissioner of the department of transportation.

III. ADMINISTRATION AND INDEMNIFICATION OF OFFICERS AND EMPLOYEES

The administrative services of the Town shall by ordinances adopted by the Selectmen, be divided into such departments or other agencies as are necessary for the proper and efficient management of the affairs of the Town. Said ordinance shall define the function and duties of each Town department or agency and shall be known as the "Administrative Code". The Board of Selectmen may, by amendment to the Administrative Code Ordinance, create, consolidate or abolish departments or agencies and define or alter their functions and duties. The head of each department or agency established by the Administrative Code shall have and exercise supervision and control of his/her department or agency and the employee therein, subject to the authority, review and/or orders of the Town Manager, and shall have the power to prescribe rules and regulations not inconsistent with state/federal law, this Charter, the Administrative Code and the authority of the Town Manager.

Indemnification of officers and employees. The Town shall indemnify and/or save harmless any person employed by the Town, including but not limited to its Town Manager, Assistant Town Manager, and/or Appraiser, any member of its Board of Selectmen, any administrative staff members, and any member of agencies, boards, committees, or commissions, all of which may include, but are not limited to, the Board of Adjustment, Planning Board, Trustee of Funds, Trustee of Libraries, Park Commission, Conservation Commission, Municipal Budget Committee, and/or any elected or appointed Town officials, all acting for and/or to the benefit of the Town of Conway, from any personal financial loss or damage and/or expense,

including reasonable legal fees and costs, if any, arising out of any claim, demand, suit or judgment by reason of any of the following:¹⁶

1. Any act or omission constituting a violation of the civil rights of an employee or any person under any federal and/or state law or constitution if such act or omission is not committed with malice and the indemnified person, at the time of such act or omission, was acting within the scope of his/her employment or office; and
2. Negligence or other act resulting in accidental injury to a person or accidental damage to or destruction of property if the indemnified person, at the time of the accident resulting in injury, damage or destruction, was acting in the scope of his/her employment or office.

IV. REPEAL OF ORDINANCES AND BY-LAWS

Regular Ordinances and By-Laws may be repealed or amended at Town Meeting by a majority vote.

V. CONTINUATION OF ORDINANCES AND BY-LAWS.

All By-Laws, Ordinances, Resolutions, Rules, Regulations and Votes of the Town Meeting which are in force at the time of this Charter is adopted, not inconsistent with the provisions of this Charter, shall continue in force until amended or repealed, including By-Laws, if any, which have been passed and have been approved but have not been published.

VI. CONTINUATION OF GOVERNMENT

All departments, boards, commissions and other Town agencies, and members thereof, whether elected or appointed, shall continue in the performance of their powers, duties and functions until successors have been elected or appointed as provided by this Charter or by the General Laws.

VII. CONTINUATION OF ADMINISTRATIVE PERSONNEL

Any person holding an office or position in the administrative service of the Town at the time this Charter takes effect shall retain such office or position and continue in the performance of his/her duties until or unless provisions shall have been made, in accordance with this Charter for the performance of such duties or the discontinuance of such office or position.

VIII. CONTINUANCE OF CONTRACTS AND OBLIGATIONS

All contracts or obligations entered into by the Town prior to the effective date of this Charter shall continue in full force and effect.

16. Editor's Note: Added to Charter during codification; authority originally enacted 3-11-1986 ATM by Art. 23.

IX. THE CONWAY CODE

The Board of Selectmen shall hereafter, in at least every two (2) year intervals, provide for the review and update of the general codification of all existing Ordinances and By-Laws and this Charter of the Town. The general codification shall continue as now existing or modified by a majority vote of the Board and shall be in loose-leaf form together with this Charter and any amendments thereto, and with such codes of technical regulations and other rules and regulations as the Board may specify. This compilation shall be known as the Conway Code.

The Conway Code shall be maintained currently by there being inserted, all new Ordinances, By-Laws, and other pertinent material including an indexed record of rescinded Ordinances and other changes. Copies of the Code and of new Ordinances and By-Laws enacted shall be made available on request to officials, libraries and public offices for public reference and also made available to the public for purchase at a reasonable price.

X. TRANSFER OF RECORDS AND PROPERTY

All records, property, and equipment, whatsoever, of any office, department or agency or part thereof, the powers and duties of which are assigned in whole or in part to another office or agency, shall be transferred forthwith to the office, department or agency to which such powers and duties are assigned.

XI. TOWN PROPERTY AND REAL ESTATE

The Selectmen have control of all Town property which has not been placed in the care of a particular board, commission, trustees of the trust funds, officers or departments by the By-Laws, or by the vote of the Town Meeting. The power to purchase, sell and convey property for public use rests with the Town Meeting.

No Town real estate or property may be conveyed to any person unless the Town by a majority vote at Town Meeting authorizes the Selectmen to dispose of such property or real estate unless otherwise provided by the General Laws. Real estate or property must be disposed of by either a public auction or by advertised sealed bids unless otherwise allowed per Town Meeting vote. The Selectmen have the power to set a minimum amount for which the real estate or property is to be sold, and to set the terms and conditions for the sale. The Selectmen may by a specific article in the Town Warrant be authorized to dispose of property or real estate in a different manner than auction or sealed bid. Authority to transfer or to sell real estate or property continues in effect for one (1) year from the date of the Town Meeting unless otherwise provided.

The Board of Selectmen is authorized to accept private donations of land, interest in land or money to be deposited into the conservation fund for the purposes of contributing conservation land or interest in land and other costs associated therewith for permanent conservation use under the New Hampshire Land and Community Heritage Investment Program (LCHIP) (RSA Ch. 227-M). The Selectmen are authorized to apply for and accept state matching funds under the LCHIP for the purposes of acquisition of the fee or lesser

interest in conservation land. Said appropriated or donated funds and state matching funds may be expended by majority vote of the Conservation Commission.¹⁷

The Board of Selectmen may acquire or sell real estate for the Town after recommendations from the Planning Board and Conservation Commission of the Town pursuant to procedures, including public hearings, set forth under RSA 41:14-a, but limited upon written petition to the Board of Selectmen. This authority shall remain in effect until specifically rescinded by subsequent vote of the Town, but such authority shall not permit sale of Town-owned conservation land, Town forest, or any real estate given to the Town for charitable or community purposes.¹⁸

XII. SPECIFIC PROVISIONS SHALL PREVAIL

To the extent that any specific provisions of this Charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

XIII. TRANSITIONAL PROVISIONS

- (A) The Inhabitants of the Town of Conway shall continue to be a body politic and corporate under the name of the "Town of Conway" and as such to enjoy all the rights, immunities, powers, privileges and be subject to all the duties and liabilities now appertaining to, or incumbent upon them as a municipal corporation. Under this Charter all existing property of the Town shall remain vested in it and all its existing debts and obligations shall remain obligatory upon it.
- (B) The incumbents in all elective or appointive Town offices, not abolished or superseded when this Charter takes effect, shall continue to hold office until the expiration of their respective terms where a term of office exists, or until such offices are abolished or superseded by any lawful act of the Town.
- (C) All Ordinances and other Town legislation now in effect shall remain in effect until altered or repealed except where a contrary intent appears in this Charter. In the event of an implied repeal by virtue of existing Town legislation being contrary to any section of this Charter, the legislation shall be deemed repealed only to the minimum extent necessary to bring the legislation into conformance with this Charter.

XIV. AMENDMENT OR REPEAL

Amendment or repeal of this Charter shall be in accordance with State Statute RSA Ch. 49-B.

XV. EFFECTIVE DATE

This Charter shall become effective upon approval in accordance with State Statute RSA Ch. 49-B.

17. Editor's Note: Added to Charter during codification; authority originally enacted 1988 ATM by Art. 20.

18. Editor's Note: Added to Charter during codification; authority originally enacted 2002 ATM by Art. 42.

XVI. SHORT TITLE

This document shall be known and may be cited as the Conway Charter.

XVII. PRECINCTS AND DISTRICTS WITHIN THE TOWN OF CONWAY

This Charter recognizes the Conway Village Fire District, East Conway Fire District, Center Conway Fire District, North Conway Water Precinct, Kearsarge Lighting Precinct, and Intervale Lighting Precinct, which now exist with the full rights and powers of village precincts and districts respectively and as separate corporate entities under the laws of the State of New Hampshire.

XVIII. CONWAY SCHOOL DISTRICT

This Charter recognizes the Conway School District which now exists with the full rights and powers of a school district and a separate corporate entity under the Laws of the State of New Hampshire.

XIX. CHARTER ENFORCEMENT

The provisions of this Charter may be enforced by any citizen of the Town of Conway or the Board of Selectmen of the Town by appropriate action brought in the Superior Courts of this State or such other State or Federal Courts may have jurisdiction over the terms and subject matter of this Charter.

CHARTER

C Attachment 1

Town of Conway

Glossary

ADMINISTRATIVE CODE:	The Administrative Code shall be those ordinances adopted by the Board of Selectmen designating the organizational chart and management functions and duties of departments providing service of the Town.
AFFIDAVIT:	A voluntary sworn declaration, in writing, made before competent authority.
AUSTRALIAN BALLOT:	A ballot bearing the names of all the candidates of all parties, so arranged as to insure absolute secrecy and liberty in polling votes.
BOARD:	Board of Selectmen.
CHARTER:	A document granting and defining the home rule rights, liberties and powers of the town as authorized by the New Hampshire State Constitution and State Statutes.
CODE:	The published ordinances and by-laws of the Town arranged in a systematic form by chapters and sections.
CONTRACT:	An agreement which creates, modifies, or destroys a legal relation.
CUMULATIVE:	Steadily increasing in volume or strength.
EMERGENCY:	A sudden unexpected happening or an unforeseen occasion or condition.
EMPLOYEE:	One who works for the Town in return for salary, wages or other considerations.
EMPLOYER:	The Town.
ENACTMENT:	The act of establishing a law or ordinance.
FISCAL YEAR:	A twelve month period used by the Town as a basis for business reckoning. Present fiscal year - January 1st to December 31st.
GENERAL COURT:	The official title of the Legislature in New Hampshire.
GENERAL LAWS:	The State Law which is binding upon all members of a community and referring to the Revised Statutes Annotated (RSA).
LEGISLATIVE BODY:	Town Meeting.

CONWAY CODE

MUNICIPAL CORPORATION:	An incorporated town.
NOW:	The adoption date of this Charter.
OFFICIAL:	A person elected or appointed to fill an office established by Town or State Statutes.
OVERSEER:	Local officials to whom is delegated the ministerial work of a department.
PLURALITY VOTE:	The excess of the votes cast for one candidate over those cast for any other.
PRECINCT:	Any incorporated subdivision of the Town as established for the purposes set forth in the Statutes; also known as Village Districts.
PROMULGATE:	To make known or announce officially and formally.
QUALIFIED VOTER:	A registered voter.
QUORUM:	Such a number of members of any corporate body as is necessary for the legal transaction of business.
RATIFY:	Make valid by approving.
RESIDENT:	One having legal residence or domicile.
RIGHT TO KNOW LAW:	That general law which defines the public's rights of access to public proceedings and records.
STATUTE:	The written will of the General Court expressed according to form necessary to constitute a law of the State and rendered authentic by certain prescribed forms and solemnities.
TOWN:	Town of Conway
TOWN BY-LAWS AND ORDINANCES:	A local law of a municipal corporation of a general and permanent nature.
TOWN MEETING:	An assembly of qualified voters for the purpose of transacting Town business in accordance with State Statutes.
VESTED RIGHTS:	Established by law as a permanent right.
WARRANT:	Notice of a Town Meeting together with the subject matter to be considered.

THE CODE

Chapter 1
GENERAL PROVISIONS

ARTICLE I
Adoption of Code

[HISTORY: Adopted by the Town of Conway as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Adoption of Code

[A proposed Code Adoption Ordinance to adopt the new Code, including any changes made during the course of the project, is presently under consideration. Upon adoption, the ordinance will be included as Article I of this chapter.]

Chapter 12

ALCOHOLIC BEVERAGES

§ 12-1. Public consumption prohibited.

§ 12-3. Violations and penalties.

§ 12-2. Enforcement.

[HISTORY: Adopted by the Town of Conway 3-11-1987. Amendments noted where applicable.]

GENERAL REFERENCES

Parks and Town property — See Ch. 90.
Peace and good order — See Ch. 95.

Special events — See Ch. 120.

§ 12-1. Public consumption prohibited.

No person shall drink any alcoholic beverage or alcoholic liquor, as defined in RSA 175:1, on any of the following premises within the Town of Conway:

- A. On any way as defined in RSA 259:125;
- B. Inside any vehicle while that vehicle is situated on any way as defined in RSA 259:125;
or
- C. At any public place as defined in RSA 644:2, V(b), except in those public places which are authorized to sell or distribute alcoholic beverages and/or alcoholic liquor for consumption on their premises pursuant to the New Hampshire Revised Statutes Annotated, Title XIII, Alcoholic Beverages.

§ 12-2. Enforcement.

Any sworn law enforcement officer is empowered to enforce the provisions of this chapter.

§ 12-3. Violations and penalties. ¹

Any person found in violation of this chapter shall be guilty of a violation and may be fined in an amount set from time to time by the Board of Selectmen, with such fines to inure to the general budget of the Town per RSA 31:39.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 16
AMUSEMENTS

§ 16-1. Safety inspection required.

§ 16-2. Daily checklist.

[HISTORY: Adopted by the Town of Conway 3-10-1982. Amendments noted where applicable.]

GENERAL REFERENCES

Fireworks — See Ch. 53.
Parks and Town property — See Ch. 90.

Special events — See Ch. 120.

§ 16-1. Safety inspection required.

The operator of any carnival or amusement ride (as defined by RSA Ch. 321-A) who seeks a license to operate the same within the Town of Conway shall be required to cause each such ride to satisfactorily pass a safety inspection to be made by an inspector acceptable to the Director, Division of Safety Services, State of New Hampshire, and the insurer covering same, this inspection to be made while said rides are being assembled, and an operating inspection to be made following assembly, this inspection report to be reviewed by the Town before a license to operate said ride is issued.

§ 16-2. Daily checklist.

In addition, a daily written checklist of inspection and test will be required. This checklist is to be signed by the responsible person designated by the owner-operator of the amusement rides. This daily checklist will be done under the supervision of a person designated by the Board of Selectmen and will be available upon demand during each day of operation to law enforcement officials or a designee of the Board of Selectmen of the Town of Conway.

Chapter 23

BUILDING CONSTRUCTION

ARTICLE I
Alternative Energy Source Tax
Exemptions

- § 23-1. Wood heating systems.
- § 23-2. Solar energy systems.
- § 23-3. Wind power systems.

ARTICLE II
Life Safety Code

- § 23-4. Adoption of standards.
- § 23-5. Violations and penalties.

ARTICLE III
Sprinkler Systems

- § 23-6. Installation required; plans to be submitted.
- § 23-7. Installation and maintenance requirements.
- § 23-8. Residential requirements.
- § 23-9. Water supply requirements.
- § 23-10. Modification of requirements.

§ 23-11. Violations and penalties.

ARTICLE IV
Building Code

- § 23-12. Establishment of Building Code Board of Appeals.
- § 23-13. Building permit required; certificates of occupancy.
- § 23-14. Registration and responsibilities of contractors.
- § 23-15. Compliance with Town codes; Planning Board action.
- § 23-16. Fees; rules of interpretation.
- § 23-17. Application for permits.
- § 23-18. Expiration of permits.
- § 23-19. Amendment of application forms.
- § 23-20. Violations and penalties.
- § 23-21. Applicability; when effective.
- § 23-22. Inconsistent ordinances.
- § 23-23. Severability.
- § 23-24. Amendments.

[HISTORY: Adopted by the Town of Conway as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Excavations — See Ch. 47.
 Housing standards — See Ch. 72.
 Sewers — See Ch. 105.

Taxation — See Ch. 135.
 Vehicle height and width limits — See Ch. 160.
 Zoning — See Ch. 190.

ARTICLE I

Alternative Energy Source Tax Exemptions

[Adopted 3-10-1981 ATM by Arts. 7, 8 and 9; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 23-1. Wood heating systems.

In accordance with RSA 72:70, the Town shall grant a property tax exemption on real property equipped with a wood heating system, which exemption shall be in an amount of 100% of the cost of said wood-heating energy system.

§ 23-2. Solar energy systems.

In accordance with RSA 72:62, the Town shall grant a property tax exemption on real property equipped with a solar energy heating or cooling system, which exemption shall be in an amount of 100% of the cost of said solar system.

§ 23-3. Wind power systems.

In accordance with RSA 72:66, the Town shall grant a property tax exemption on real property equipped with a wind-powered energy system, which exemption shall be in an amount of 100% of the cost of said wind energy system.

ARTICLE II

Life Safety Code

[Adopted 3-1987; amended in its entirety 3-1989]

§ 23-4. Adoption of standards. [Amended 3-8-1991]

The Town voted to adopt the National Life Safety Code, NFPA Doc. No. 101, edition currently being enforced by the State of New Hampshire Fire Marshal's Office.

§ 23-5. Violations and penalties. [Amended 3-8-1991¹]

A fine in an amount set from time to time by the Board of Selectmen shall be levied against violators of the National Life Safety Code adopted by the Town of Conway for the following:

- A. Any person who keeps or places a liquid propane gas (LPG) tank having a rated capacity of more than 25 pounds in existing buildings or buildings under construction.
- B. A person who owns or maintains custody and control of a building open to the public having locked exit doors. Said person shall receive one verbal warning for the first violation and a written warning for the second violation and be punished by a fine for each violation after a written warning for the same building.²

¹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

² Editor's Note: Original § 90-3 of the prior Code, Installation of automatic fire extinguishing systems, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

ARTICLE III
Sprinkler Systems
[Adopted 3-1988; amended 3-10-1992]

§ 23-6. Installation required; plans to be submitted.

- A. In addition to the requirements of the NFPA 101 Life Safety Codes and the State Building Code, this article shall augment or further require the installation of fire suppression sprinkler systems. Where any two requirements conflict, the more restrictive shall apply.
- B. When sprinkler systems are required, two complete sets of plans shall be submitted when applying for a building permit. Plans shall be reviewed and approved or denied by the Building Inspector. The Building Inspector shall review plans with the Fire Chief and approve or deny said plans within 30 days of receipt.³

§ 23-7. Installation and maintenance requirements. [Amended 3-10-1992⁴]

Fire suppression systems shall be installed and maintained in full operating condition in accordance with the provisions of NFPA 13, Standard for the Installation of Sprinkler Systems, current edition.

§ 23-8. Residential requirements.

- A. Fire suppression systems shall be installed and maintained in full operating condition in accordance with the provisions of NFPA 13D, Sprinkler Systems, One- and Two-Family Dwellings, current edition as adopted by the State of New Hampshire.⁵
- B. Sprinkler systems shall be installed in all new structures as indicated in this section or in existing structures undergoing alterations or expansion whereby the total cost for such alterations or expansion is 50% or larger of the most recent property and structure evaluation or whereby occupancy changes from one use group to another or whereby alterations exceed 50% of the square footage of the structure, all floors included, therefore indicating that the more restrictive provision shall apply.
 - (1) Use Group R.
 - (a) Residential sprinkler systems shall be installed in all buildings or structures or portions thereof of Use Group R-2.
 - (b) Exceptions shall be as follows:

3. Editor's Note: Original § 91-2 of the prior Code, Use groups, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- [1] Use Group R-3.
- [2] Not required in Use Group R-2 when each room or unit has its own exit to the outside and when the structure is no more than one story.

§ 23-9. Water supply requirements.

The amount of water required for sprinkler systems is as listed below. In all cases, the most restrictive requirement applies:

- A. Water supply required to be stored on site for systems installed as per § 23-7 of this article in areas where municipal water service is not available:
 - (1) Supply for five activated sprinkler heads for 30 minutes' duration.
 - (2) Supply 20 gallons per minute per sprinkler head with at least 50 pounds net head pressure at the operating sprinkler heads.
- B. Water supply required to be stored on site for systems installed as per § 23-8 of this article in areas where municipal water service is not available:
 - (1) Supply 500 gallons for every three units. Systems must be equipped with an automatic pump.
- C. Water supply for systems installed as per § 23-7 or 23-8 of this article where municipal water is available:
 - (1) No supply required to be stored on site.
 - (2) The size of the incoming water supply shall be as agreed upon by the Fire Chief and Building Inspector.
- D. In all cases, should municipal water supply become available to a new area, all sprinkler systems shall be attached to the municipal system if the sprinklered property has frontage on a street or road which obtains municipal water supply.

§ 23-10. Modification of requirements.

The specific requirements of this article may be modified by the Town of Conway Building Inspector or Fire Chief to allow alternative arrangements that will secure as nearly equivalent safety to life from fire as practical, but in no case shall the modification afford less safety to life than compliance with the provisions as set forth in §§ 23-6 through 23-9.

§ 23-11. Violations and penalties. ⁶

Any person, persons, firm, corporation or partnership who or which shall violate any provisions of this article or who or which shall fail to comply with any of the requirements

⁶ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

thereof shall be guilty of a violation punishable by a fine as set from time to time by the Board of Selectmen. Each day that a violation continues to exist shall constitute a separate offense.

ARTICLE IV
Building Code
 [Adopted as amended 4-11-2006]

§ 23-12. Establishment of Building Code Board of Appeals. ⁷

Pursuant to RSA 673:1, V, the Conway Board of Selectmen is hereby authorized to establish a Building Code Board of Appeals, rules of procedure governing said board and appoint members. Until such time as the Board of Selectmen establish a Building Code Board of Appeals, the Zoning Board of Adjustment shall act as the Building Code Board of Appeals.

§ 23-13. Building permit required; certificates of occupancy.

- A. No building or other structure shall be constructed, altered or moved until a written building permit has been issued by the Selectmen or their agent when the construction or alteration to take place is of the following types:
- (1) Structural. All structural changes, additions and/or alterations to a building or other structure shall require a building permit. Furthermore, all changes, additions and/or alterations that may affect the structural capacity of an existing building or other structure shall require a building permit.
 - (2) Footprint expansion. All expansions of the existing footprint (as defined in Chapter 190, Zoning, § 190-32) of a building shall require a building permit.
 - (3) Assessor's use.
 - (a) All residential home improvements to a building or other structure costing in excess of \$1,500 per structure per year shall require a building permit. If labor is to be done by the owner, then the value of the improvement shall be determined by doubling the value of the materials used.
 - (b) All improvements to a commercial structure, regardless of value, shall require a building permit.
 - (4) Moving buildings. Whenever a structure is to be moved, a building permit shall be required. Compliance with Chapter 160, Vehicle Height and Width Limits, of the Conway Code is required to move a structure.
- B. A certificate of occupancy/compliance is required by the Town of Conway after completion of work under all commercial nonresidential or multifamily building permits. A certificate of occupancy/compliance may be issued by the Town of Conway as

7. Editor's Note: Original §§ 88-1, Legislative intent, and 88-2, Adoption of building code, of the prior Code, which immediately preceded this section, were repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

requested after completion of work under a one- or two-family residential building permit.

§ 23-14. Registration and responsibilities of contractors.

- A. All contractors shall be registered prior to working on any project in the Town of Conway. A registration may be applied for at the Town offices and will be issued by the Selectmen or their duly appointed agent. There shall be no fee for this registration.
- B. Upon obtaining a registration from the Town of Conway, the contractor accepts the responsibility for obtaining and keeping current all building permits required by the Town. Should a contractor violate this section of the Conway Code, the penalties shall be as set from time to time by the Board of Selectmen. After the second offense, the contractor is prohibited from obtaining building permits directly or as an agent or owner for a period of six months and shall pay a fine as set from time to time by the Board of Selectmen.⁸
- C. Any person who violates this section and wishes to appeal the penalties may do so by appearing before the Board of Selectmen.

§ 23-15. Compliance with Town codes; Planning Board action.

Prior to issuing a building permit, applications shall be reviewed by the Selectmen or their agent to ensure compliance with applicable codes. All applications shall be reviewed by the Selectmen or their agent to determine whether Planning Board approval is necessary. If Planning Board approval is not necessary, a separate zoning permit is required. If Planning Board approval is required, a separate zoning permit shall not be required and the applicant shall proceed to the Planning Board for the necessary approvals.

§ 23-16. Fees; rules of interpretation. [Amended 4-14-2015 by Art. 4A⁹]

- A. A nonrefundable fee shall be paid to the Town with each application for a building permit in an amount set from time to time by the Town Meeting.
- B. Words and phrases hereunder shall be deemed to have the same meaning and definitions as set forth in the State Building Code adopted in this article. Dollars per square foot are to be based on current mean construction cost data, and repairs and remodeling \$/SF shall be based on general estimated practice.
- C. In all cases, estimates shall at least meet valuations represented in the latest edition of the Marshall Valuation Service (Marshall and Swift, LP) on file in the Assessor's office.
- D. Notwithstanding any other enforcement action available to the Town, an applicant filing an application late may be required to pay an additional penalty fee as set from time to

8. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

9. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

time by the Board of Selectmen for each day between the date construction began and the date the application was filed.

- E. A nonrefundable fee in an amount set from time to time by the Town Meeting shall be paid to the Town with each application for a zoning permit.

§ 23-17. Application for permits.

- A. Each application for a building permit and application for a zoning permit or change of use shall be in writing, signed by the owner of the property to be built upon, on forms to be supplied by the Town. These forms shall be filled out in sufficient detail to show conformance with this article and all applicable state and Town of Conway rules, regulations and ordinances. Copies of the original forms to be used hereunder have been filed by the Selectmen with the Town Clerk of Conway with a copy of this article prior to its adoption.
- B. In addition to the application forms, all applicants for a building permit for a commercial or multifamily (three-or-more-unit buildings) project shall be required to submit architectural/structural plans conforming to the State Building Code as part of their submission. The applicant shall submit one copy of these plans to the Town's Building Inspector and one copy to the Fire Chief having jurisdiction.¹⁰

§ 23-18. Expiration of permits.

Any building permit shall expire upon completion of the proposed project as may be indicated on the form or at the end of one year, whichever time shall arrive earlier. All building permits issued by the Town prior to the date of adoption of this article shall remain valid no longer than one year after the effective date of this article.

§ 23-19. Amendment of application forms.

The Selectmen shall be authorized to amend the forms to be used hereunder from time to time, provided that at least two public hearings shall be held, with each hearing having published notices therefor at least two weeks prior to such hearing; after the second hearing, the Selectmen shall vote to adopt amended forms, record the amended forms with the Town Clerk of Conway, and thereafter the same shall be valid and enforceable. In the notice of the second hearing, the entire proposed amendment shall be published and no substantive changes may be made after the second hearing.

§ 23-20. Violations and penalties.¹¹

Any violation of any provision of this article or the forms promulgated hereunder shall be punished on conviction by a fine of \$275 for the first offense and \$550 for subsequent

10. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

11. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

offenses pursuant to RSA 676:17. The Town may also enforce this article and the regulations hereunder by injunction, restraining order or other appropriate action.

§ 23-21. Applicability; when effective.

This article shall apply throughout the Town of Conway and shall take effect when adopted at any duly warned Town Meeting.

§ 23-22. Inconsistent ordinances.

In the event that the requirements of this article are in conflict with other codes, the more stringent shall apply.

§ 23-23. Severability.

Nothing in this article or in the Building Code hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing under any act or ordinance hereby repealed, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this article.

§ 23-24. Amendments.

This article may be amended in accordance with RSA 675:3. This shall not be deemed to limit the authority of the Selectmen to adopt and/or amend forms consistent with the powers and procedures established hereunder.

Chapter 35

DOGS AND OTHER ANIMALS

ARTICLE I
Running at Large

§ 35-1. Adoption of statutory restrictions.

§ 35-2. Definitions.

§ 35-3. Prohibited conduct.

§ 35-4. Enforcement.

§ 35-5. Violations and penalties.

[HISTORY: Adopted by the Town of Conway as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Parks and Town property — See Ch. 90.

ARTICLE I
Running at Large

[Adopted 3-8-1983 ATM by Art. 2; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 35-1. Adoption of statutory restrictions.

The Town hereby adopts the provisions of RSA 466:30-a, which makes it unlawful for any dog to run at large, except when accompanied by the owner or custodian, and when used for hunting, for guarding, working or herding livestock, as defined in RSA 21:34-a, II(a)(4), for supervised competition and exhibition or for training for such.

§ 35-2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

AT LARGE — Off the premises of the owner or keeper and not under the control of any person by means of personal presence and attention as will reasonably control the conduct of such dog, unless accompanied by the owner or custodian.

§ 35-3. Prohibited conduct.

It shall be unlawful for any dog to run at large, except when accompanied by the owner or custodian, and when used for hunting, for guarding, working, or herding livestock, as defined in RSA 21:34-a, II(a)(4), for supervised competition and exhibition, or for training for such. For the purpose of this section, "accompanied" means that the owner or custodian must be able to see or hear, or both, or have reasonable knowledge of where the dog is hunting, where training is being conducted, where trials are being held, or where the dog is guarding, working, or herding livestock. Nothing herein provided shall mean that the dog must be within sight at all times.

§ 35-4. Enforcement.

- A. Any authorized person may seize, impound or restrain any dog in violation of this article and deliver said dog to a person or shelter authorized to board dogs. Such dogs shall be handled as strays or abandoned dogs pursuant to applicable laws.
- B. In addition to impounding a dog found at large or in violation of this article, any local law enforcement officer may issue, in the name of the owner or keeper of such dog, a notice of violation for a nuisance dog pursuant to RSA 466:31, II(a).

§ 35-5. Violations and penalties.

Any owner or keeper of a dog who violates any provision of this article shall be subject to a fine as set from time to time by the Board of Selectmen.

Chapter 41

DRAINAGE SYSTEMS

§ 41-1. Connections restricted.

§ 41-3. Applicability to existing connections.

§ 41-2. Permit required for surface water disposal connection.

§ 41-4. Violations and penalties.

[HISTORY: Adopted by the Board of Selectmen of the Town of Conway 1-23-1959. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 23.
Excavations — See Ch. 47.
Sewers — See Ch. 105.

Site plan review — See Ch. 110.
Streets and sidewalks — See Ch. 125.
Subdivision of land — See Ch. 130.

§ 41-1. Connections restricted.

No connections shall be made to any part of the Town highway storm drainage system for any purpose, except for the drainage of surface runoff water.

§ 41-2. Permit required for surface water disposal connection.

- A. No connections shall be made to any part of the Town highway storm drainage system for the purpose of surface water disposal without the written permission of the Board of Selectmen.
- B. Application for such connection must be made in writing to the Board of Selectmen and must be accompanied by a sketch showing the location of the proposed connection and the area to be drained.

§ 41-3. Applicability to existing connections.

This chapter does not affect connections to the Town highway drainage system existing on this date.

§ 41-4. Violations and penalties.¹

Any person violating this chapter shall be fined a sum as set from time to time by the Board of Selectmen. Each day of violation shall be considered a separate offense.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 47

EXCAVATIONS

- § 47-1. Authority.
- § 47-2. Purpose.
- § 47-3. Definitions.
- § 47-4. Permit required; term; prohibited acts.
- § 47-5. Permit approval procedures; annual extensions.
- § 47-6. Fees.
- § 47-7. Application submission requirements.
- § 47-8. Financial securities.
- § 47-9. Reclamation agreement.
- § 47-10. Operational standards.
- § 47-11. Reclamation standards.
- § 47-12. Waivers.
- § 47-13. Amendment of permit.
- § 47-14. Administration; construal of provisions.
- § 47-15. Appeals.

[HISTORY: Adopted by the Planning Board of the Town of Conway 8-9-1990. Amendments noted where applicable.]

GENERAL REFERENCES

- | | |
|---------------------------------|------------------------------------|
| Sewers — See Ch. 105. | Subdivision of land — See Ch. 130. |
| Site plan review — See Ch. 110. | Zoning — See Ch. 190. |
-

§ 47-1. Authority.

Pursuant to the grant of authority in RSA 155-E:11, the Planning Board of the Town of Conway, New Hampshire, hereby adopts these excavation regulations on August 9, 1990.

§ 47-2. Purpose.

The purpose of this chapter is to control excavation to ensure protection of public health, safety and welfare. Clearly, the public interest is served by allowing the reasonable extraction of earth, but such excavations must not be allowed to cause "undue disruption of local land use plans and patterns" (New Hampshire Senate Bill 67-FN, 1989, adopted as Chapter 363). This chapter fulfills many public purposes, including making excavation sites safe during excavation operation; ensuring safe, usable and aesthetically acceptable reclaimed excavation sites; protecting natural resources, including but not limited to soil, water, flora and fauna; preventing land and water pollution; promoting soil stabilization; and protecting the productivity of agricultural land of national and state significance.

§ 47-3. Definitions.

- A. In addition to those definitions listed below, the definitions of Chapter 130, Subdivision of Land, of the Conway Code are hereby incorporated by reference. If there are conflicting definitions, definitions listed below shall supersede those of Chapter 130.

B. As used in this chapter, the following terms shall have the meanings indicated:

ANNUAL EXCAVATION PERMIT EXTENSION — Authorization from the Town to extend the duration of the excavation permit.

BOARD — The Town of Conway, New Hampshire, Planning Board.

DIMENSION STONE — Rock that is cut, shaped or selected for use in blocks, slabs, sheets or other construction units of specified shapes or sizes and used for external or interior parts of buildings, foundations, curbing, paving, flagging, bridges, revetments or for other architectural or engineering purposes. Dimension stone includes quarry blocks from which sections of dimension stone are to be produced. Dimension stone does not include earth, as defined below.

EARTH — Sand, gravel, rock, soil or construction aggregate produced by quarrying, crushing or any other mining activity or such other naturally occurring unconsolidated materials that normally mask the bedrock.

EXCAVATION — A land area which is used, or has been used, for the commercial taking of earth, including all slopes.

EXCAVATION BUFFER AREA — That area surrounding an excavation site which is not excavated and which naturally or through modification offers abutters and those passing the site protection from visual and noise impacts.

EXCAVATION PERMIT — Authorization from the Town of Conway to excavate earth.

EXCAVATION SITE — Any area of contiguous land in common ownership upon which excavation takes place.

§ 47-4. Permit required; term; prohibited acts.

- A. Unless specifically exempted under the provisions of RSA 155-E:2 or RSA 155-E:2-a, no excavation shall begin nor be expanded without first obtaining an excavation permit from the Board and maintaining a valid permit for the duration of the project.
- B. Excavation permits shall be valid for a period of one calendar year. Excavations which last longer than this may apply each year for an annual excavation permit extension.
- C. The following are prohibited projects, and the Board shall not grant a permit:
- (1) Where the excavation would violate the operational standards of RSA 155-E:4-a or those operational standards specified in this chapter.
 - (2) For excavation within the buffer area, unless the abutter along the relevant boundary submits a written request to waive said buffer.
 - (3) When the excavation is prohibited by Chapter 190, Zoning, of the Conway Code, subject to the limitations set forth in RSA 155-E:4, III.

- (4) When the issuance of a permit would be unduly hazardous or injurious to the public health, safety or welfare.
- (5) Where existing visual barriers, especially trees, in the buffer area would be removed, except to provide access to the excavation.
- (6) Where the excavation would substantially damage a known aquifer, so designated by the United States Geological Survey.
- (7) When the excavation is planned beneath or adjacent to inland surface waters in such a manner that a permit is required from the New Hampshire Department of Environmental Services or federal agencies with jurisdiction over the premises, but the Planning Board may grant the permit when all necessary permits have been obtained.
- (8) Where the project cannot comply with the reclamation provisions of RSA 155-E:5 and 155-E:5-a, or any provisions set forth in this chapter.
- (9) Prior to receipt of an opinion letter from the Conway Conservation Commission regarding the Commission's concerns, provided that such letter is received within 30 days of the submission of the complete application.

§ 47-5. Permit approval procedures; annual extensions.

The first action an applicant should take is to read through this chapter. Copies are available at Town Hall, and a fee to cover printing costs shall be charged. By reading the rules, the applicant will know the Town requirements and will be properly prepared to proceed with the application for an excavation permit. Failure to fulfill such requirements may result in unnecessary delays in obtaining a permit.

- A. Preliminary discussion. This initial step is optional, at the applicant's discretion, but is strongly recommended so that the applicant may get the Board's initial reaction to, and suggestions for, the project. The applicant may meet with the Board to discuss the project in general terms only, possibly specified and limited in RSA 676:4, II(a). Further detail in the discussion, including presentation of any plans, shall require proper public notice, as per RSA 676:4, II(b). However detailed the discussion, this phase is nonbinding on both the Board and the applicant.
- B. Application acceptance checklist. After preparing an application, the applicant shall meet with the Town Planning Director to review the application and related materials. The Planning Director shall review the application and related materials and shall complete the application acceptance checklist based on information provided at this meeting. The checklist is shown in Table One.¹ If the applicant successfully meets the requirements of this checklist, the Planning Director shall schedule a public hearing with the Board, to be held within 30 days. (Note: Successful completion does not constitute application acceptance by the Planning Board, but is merely a preliminary check prior to setting up a public hearing.) If the applicant fails to meet the requirements of this checklist, the

1. Editor's Note: The checklist is on file in the Town offices.

applicant shall revise the materials as needed and repeat this step. The checklist and all application materials shall remain on file at Town Hall, available for public inspection.²

- C. Public notice. Notice of the public hearing shall be sent by certified mail to the applicant, abutters and the Chairman of the Conservation Commission. Such notice shall be published in a local newspaper and shall be posted at Town Hall, the Conway Post Office, the Center Conway Post Office and the North Conway Post Office. Notice shall state the date, time and location and shall precede the hearing by at least 14 days, not including the day of the hearing nor the day of posting or publication.
- D. Application acceptance. The Board's first action on the application shall be to review the application materials and the checklist to determine whether or not the application is complete. If the application is found to be complete, the Board shall vote to accept the application and begin formal consideration. If the application is found to be incomplete, the Board shall vote to deny acceptance of the application on the basis of insufficient information, and the applicant shall return to Subsection B listed above.
- E. Public hearing. Upon determining that the application is complete and voting to accept the application, the Board shall ask the applicant to present a summary of the proposal to the Board and the public, then shall open a public hearing and shall ask for public input. This hearing shall not be closed until the Board is ready to approve, conditionally approve or deny the application. If additional time is necessary, the hearing shall be continued in accordance with Article IX of the Conway Planning Board Bylaws. To ensure proper control of the meeting, the Chairman may decide when further public input will be accepted and when it will be prohibited.
- F. Decision. Upon closing the public hearing or any continuations thereof, the Board shall approve, conditionally approve or deny the application within 20 days. This twenty-day limit is set by RSA 155-E:7, and may not be extended.
- G. Excavation permit. Upon payment of all fees (See § 47-6.), the posting of required financial security with the Board of Selectmen, and fulfillment of all other terms of the approval, an excavation permit shall be issued. This permit shall be valid for a period not to exceed one year. However, an annual excavation permit extension may be granted as provided in Subsection H.
- H. Annual excavation permit extension. Once each year, the owner/operator of the excavation shall request in writing an administrative review of the permitted excavation. The applicant shall demonstrate compliance with the approved plans, that the financial security for each phase which will be active during the upcoming year is in place and the approximate amount of earth remaining to be removed from the site and/or each phase. The Town Engineer and Town Planning Director shall conduct a site visit to review the information presented and shall issue an annual excavation permit extension. If noncompliance is evident, then the matter shall be brought to the attention of the Planning Board. The Board shall hold a public hearing and shall make a final determination on compliance with the conditions of the permit.³

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 47-6. Fees. ⁴

- A. Excavation fee. As provided by RSA 155-E:8, the applicant shall pay an excavation fee in an amount set from time to time by the Board of Selectmen, made payable to "Town of Conway," to cover the costs of administering the application. This excavation fee shall be paid following approval by the Board but prior to the issuance of an excavation permit.
- B. Notice fee. The applicant shall pay all applicable public notice fees specified in § 130-18 of the Conway Code. Hearing notification fees shall be paid at the time the application is submitted.
- C. Review fee. The applicant shall reimburse the Town for the cost of reviewing the application in an amount set from time to time by the Board of Selectmen.

§ 47-7. Application submission requirements.

- A. The applicant shall provide all required materials to the Town Planning Director at the time the application acceptance checklist is completed. The applicant shall provide one copy of the application form, list of abutters and mailing labels. The applicant shall provide four copies of plats, plans and impact statements. (Three copies are for the Board, and one is for the Conservation Commission.) The applicant shall provide two copies each of all contracts, agreements and other required materials.⁵
- B. A complete excavation application shall consist of the following:
 - (1) A completed application form.
 - (2) Abutters list (as listed not more than five days prior to the day of filing).
 - (3) Mailing labels for the applicant, the applicant's authorized agent, abutters and the Conservation Commission Chairman.
 - (4) Notice fees.
 - (5) Separate pre- and post-development plats of the entire parcel and the surrounding 200 feet, at a scale of one inch equals 100 feet or greater, indicating at a minimum:
 - (a) Title block, indicating name of project, name and address of owner, date of preparation and updates.
 - (b) The name of surveyor and the engineer.
 - (c) The site location map.
 - (d) Scale.
 - (e) Licensed land surveyor's stamp and signature.

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (f) Licensed professional engineer's stamp and signature on drainage materials.
 - (g) Property boundaries.
 - (h) For each abutting property, the owner's name, Tax Map and parcel number.
 - (i) Access roads.
 - (j) Topography, with twenty-foot contour intervals, unless further information is needed for proper evaluation.
 - (k) Surface waters.
 - (l) Drainage.
 - (m) Depth to estimated seasonal high water table, with enough test pits to accurately indicate site conditions, stamped by a licensed professional engineer, hydrogeologist or soil scientist.
 - (n) Vegetation.
 - (o) Natural features.
 - (p) Man-made features, including but not limited to buildings, structures, septic systems, wells and stone walls.
 - (q) Land use.
 - (r) Easements, covenants and deed restrictions.
 - (s) Zoning district boundaries, municipal boundaries, precinct/district boundaries.
- (6) A written statement describing the proposed excavation, addressing at a minimum:
- (a) Proposed hours of operation.
 - (b) Traffic impact.
 - (c) Possible or proposed future uses of the reclaimed site.
 - (d) Processing to take place on site, with types of processing equipment to be on site.
 - (e) Plan for disposal of boulders, stumps and other unused debris.
- (7) Erosion and sediment control plan, to address such controls during operation, as well as between phases (must be stamped by a professional engineer).
- (8) Phasing plan for excavation and reclamation, including operational movement and method within each phase.
- (9) Off-site improvements plan, including any agreements, plans and so forth relating to this project.

- (10) Copies of all federal, state, municipal and precinct permit applications, with final approvals/permits to be obtained prior to the Planning Board granting an excavation permit.

§ 47-8. Financial securities.

The Town requires that applicants shall post a financial security to ensure that reclamation is completed and successful. Acceptable forms shall include cash, escrow accounts, irrevocable letters of credit and bonds. The amount held by the Town shall be sufficient for the Town to complete any site work indicated in the approval and to complete the reclamation of every phase in which excavation will occur. For phased projects, the entire security for the current phase shall be posted prior to issuance of the excavation permit, and portions shall be released with the completion of tasks within each phase. Prior to continuing on to further phases, new securities shall be posted. Any partial release shall draw down the security to the point where the amount remaining will be sufficient for the Town to complete all remaining work and reclamation measures. Ten percent of the original amount of the security shall be held for a period of not less than one year but no more than two years following completion of all reclamation to ensure that the reclamation measures work; i.e., that the vegetation actually grows in seeded areas, and so forth.

§ 47-9. Reclamation agreement.

Every applicant required to post a financial security shall enter into a reclamation agreement with the Town of Conway prior to the issuance of an excavation permit. This agreement is a contract between the applicant and the Town which spells out the terms of the financial security and includes:

- A. Schedule for completion, by phase if applicable.
- B. Schedule of values for all site work and reclamation, with inflation escalators.
- C. The amount and type of the financial security.
- D. Procedures for the release or partial release of the financial security, and for posting securities for later phases.
- E. Other items deemed necessary by the Board of Selectmen or the Town Attorney.

§ 47-10. Operational standards.

The operation of all excavation sites shall conform to the following minimum standards:

- A. All work shall be completed in accordance with the plans submitted to and approved, if relevant, by the Board.
- B. Access to the site shall be designed to minimize traffic hazards on the street and to avoid nuisance to the neighbors.

- C. All processing machinery shall be set back a minimum of 200 feet from any lot line, and such machinery shall be removed from the lot upon expiration of the permit.
- D. No materials shall be stockpiled within the buffer areas.
- E. Hours of operation shall be established and noted on the excavation permit. The hours shall be proposed by the applicant, and the Board shall approve or restrict the hours of operation as required to maintain the integrity of the neighborhood.
- F. An excavation buffer area on the lot shall surround the excavation site. The buffer area shall meet or exceed the following minimum standards.
- (1) Fifty feet wide around the excavation site, completely on the lot being excavated. A lesser width may be approved by the Board, provided that the relevant abutter submits written authorization agreeing to a lesser buffer width; and
 - (2) Fifty feet wide along all public rights-of-way.
- G. A vegetative and/or topographic buffer shall be maintained within the excavation buffer area. The intent of this buffer is to screen abutting properties and roads from visual and noise impacts. Except for the site access, no trees shall be removed from the buffer area. The Board shall review the site to evaluate the need for additional screening materials and shall base such decisions on maintaining the integrity of the neighborhood.
- H. The depth of the final excavation shall be no less than four feet above the seasonal high water table.
- (1) As required by RSA 155-E:11, II, the Board may waive this requirement, subject to the following:
 - (a) The applicant demonstrates that such action will have no adverse impact on water quality and/or water supplies; and
 - (b) The area excavated below the four-foot level shall be either:
 - [1] Deemed nonbuildable, to be used solely for open space or recreation, with evidence of such restriction to be recorded with the Carroll County Register of Deeds; or
 - [2] Filled during site reclamation with material of similar porosity to that material removed, back to four feet above the seasonal high water table.
 - (2) The Board shall record a copy of such waiver with the Carroll County Register of Deeds and shall send a copy to the Department of Environmental Services, with all related costs to be paid by the applicant prior to the issuance of the excavation permit.⁶
- I. The applicant shall provide the Town with a list of any hazardous materials which may be stored or used on the site. Such materials shall be handled and stored in accordance with state regulation and standards. All applicants shall provide evidence of

6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

environmental hazard/damage insurance prior to the issuance of the excavation permit and prior to the issuance of the annual excavation permit extension.

- J. Excavation of topsoil shall be prohibited on those sites identified in the Conway Master Plan as being farmland of national importance or farmland of state importance. Excavation of topsoil on other lands shall be allowed, provided that at least four inches of topsoil are left on the surface of the entire site. Further, for excavation of materials under lands identified as farmland of state or national importance, all topsoil shall be retained on site and reclaimed as close to original as possible to maintain the agricultural productivity of the land.

§ 47-11. Reclamation standards.

The Town has both short- and long-term goals for excavation site reclamation. Short-term goals are to stabilize soils, preserve slopes and prevent erosion and pollution. Long-term goals are to provide the basis for the natural succession of vegetation and wildlife to take place on the site, ensure return of aesthetic qualities to the site and ensure continued success in meeting short-term goals specified above. The following reclamation standards are the minimum acceptable to the Town:

- A. Within 12 months after the expiration date in a permit or annual extension issued under this chapter, or of the completion of any excavation, whether subject to permit or not, whichever occurs first, the owner of the excavated land shall have completed the reclamation of the areas affected by the excavation.
- B. Reclamation shall meet each of the following minimum standards:
- (1) Earth and vegetative debris resulting from the excavation shall be removed or otherwise lawfully disposed of.
 - (2) Where there are four or more inches of topsoil on the undisturbed site, sufficient topsoil shall be retained and stockpiled on site to be used for site reclamation, with a minimum reclaimed topsoil depth of four inches. The excess topsoil may be removed from the site for other use, except as prohibited in § 47-10J.

§ 47-12. Waivers.

These regulations must be applied to each applicant in a fair and consistent manner. In certain instances, however, a waiver may be requested by the applicant if there is reason to believe that a particular requirement is inappropriate to the particular case.

- A. The applicant shall submit in writing to the Board a request for waiver at least 14 days before the scheduled meeting date. The request shall address the following:
- (1) Provision to be waived.
 - (2) Explanation of how literal enforcement of the regulation would cause a hardship due to the unique characteristics of the site under consideration.

- (3) Explanation of good cause for which the waiver may be granted, pursuant to RSA 155-E:5-b.
- B. If the Board agrees with the materials presented in the request for a waiver and further finds that such waiver would not adversely compromise the purpose or intent of these regulations, it shall vote to grant the waiver request.

§ 47-13. Amendment of permit. ⁷

The applicant may request, in writing, a modification of the approval granted by the Board. If the impact of the request is minor and does not significantly alter the original intent of the excavation permit, the Town Engineer and Town Planning Director may issue a written amendment of the excavation permit. Substantial changes shall require Planning Board approval and notice to abutters pursuant to RSA 155-E:7.

§ 47-14. Administration; construal of provisions.

- A. The enforcement of this chapter shall be the responsibility of the Board of Selectmen or its delegates, with the assistance of the Planning Board, the Conservation Commission, the Town Engineer and others as needed. The Board of Selectmen shall also be responsible for the enforcement of the reclamation agreement and the financial surety. Fines, penalties and remedies for violations shall be up to the maximum fines, all remedies, costs and reasonable attorney fees permitted pursuant to RSA 155-E:10, II.
- B. If any clause, portion or section of this chapter is found invalid by a court of competent jurisdiction, this finding shall not invalidate the remainder of this chapter. In the event that the requirements of this chapter are in conflict with other regulations, ordinances or laws of the Town of Conway and the State of New Hampshire, the more stringent shall apply.

§ 47-15. Appeals.

Appeals regarding this chapter shall be handled as specified in RSA 155-E:9.

7. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 53
FIREWORKS

§ 53-1. Definitions.

§ 53-3. Violations and penalties.

§ 53-2. Display and sale of consumer fireworks prohibited.

[HISTORY: Adopted by the Board of Selectmen of the Town of Conway as last amended 7-9-2002. Subsequent amendments noted where applicable.]

§ 53-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

DISPLAY — Those actions as defined in RSA 160-B:1, V.

§ 53-2. Display and sale of consumer fireworks prohibited.¹

Under the provisions of RSA 160-B:10, the display and sale of consumer fireworks as defined in 27 CFR 555.11 shall not be permitted within the limits of the Town of Conway.

§ 53-3. Violations and penalties.

Violation of the terms of this policy shall be punishable under the provisions of RSA 160-B:2 (sale) and 160-B:3 (display).

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 62

HAWKERS, PEDDLERS AND SOLICITORS

**ARTICLE I
Regulations for Certain Areas**

**ARTICLE II
Soliciting in Streets**

§ 62-1. Sales prohibited in certain areas.

§ 62-4. Soliciting prohibited.

§ 62-2. Deliveries permitted.

§ 62-5. Violations and penalties.

§ 62-3. Violations and penalties.

[HISTORY: Adopted by the Town of Conway as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

**Parks and Town property — See Ch. 90.
Peace and good order — See Ch. 95.**

**Streets and sidewalks — See Ch. 125.
Vending carts — See Ch. 170.**

**ARTICLE I
Regulations for Certain Areas
[Adopted 9-1977]**

§ 62-1. Sales prohibited in certain areas.

No persons shall sell or offer to sell within the limits of Route No. 16 and Norcross Circle, public roads within the Town of Conway, any goods, produce and/or wares to the general public.

§ 62-2. Deliveries permitted.

Nothing hereunder shall be deemed to prohibit house-to-house deliveries of goods, produce and/or wares.

§ 62-3. Violations and penalties.

Whoever violates the provisions of this article shall be punished by a fine not to exceed \$100 on conviction of a first offense hereof; and on each subsequent conviction, such person shall be punished by a minimum fine of \$75, and not to exceed \$100 for each offense.

ARTICLE II
Soliciting in Streets
[Adopted 3-1985]

§ 62-4. Soliciting prohibited.

It shall be unlawful to stand on the traveled portion of a way, as defined in RSA 259:125, I, for the purpose of soliciting business or contributions in regard to a commodity or service or for the purpose of distributing any literature advertising some commodity or service.¹

§ 62-5. Violations and penalties. ²

Any person violating this article shall be fined in an amount set from time to time by the Board of Selectmen, to inure to the Town for its general purposes.

1. Editor's Note: Original § 102-4.1, Vending carts, of the prior Code, added 3-12-1991, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See now Ch. 170, Vending carts.

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 67

HAZARDOUS WASTES

§ 67-1. Prohibited facilities.

§ 67-2. Definitions.

[HISTORY: Adopted by the Town of Conway 3-16-1981. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 190.

§ 67-1. Prohibited facilities.

Pursuant to RSA 31:39, it shall be unlawful, unless approved by the voters of the Town, for any individual, partnership, corporation or other entity to maintain, within the Town of Conway, any privately owned or privately operated dump, storage place or other facility primarily used for the collecting, receiving, processing, reprocessing, treatment, recovery, storage, disposal or burial of hazardous waste.

§ 67-2. Definitions.

For the purpose of this chapter, the following terms shall have the meanings indicated:

HAZARDOUS WASTE — A solid, semisolid, liquid or contained gaseous waste or any combinations of these materials which:

- A. Because of either quantity, concentration or physical, chemical or infectious characteristics may cause or contribute to an increase in mortality or an increase in irreversible or incapacitating reversible illness, or pose a present or potential threat to human health or the environment when improperly treated, stored, transported, disposed of or otherwise mismanaged.
- B. Has been identified as a hazardous waste by the New Hampshire Bureau of Solid Waste Management, using the criteria established under RSA 147-A:2. Such wastes include, but are not limited to, those which are radioactive, toxic, corrosive, ignitable, irritants, strong sensitizers or which generate pressure through decomposition, heat or other means.¹

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 72
HOUSING STANDARDS

[Article 4, adopted 3-9-1965 by the Annual Town Meeting, reads as follows: "To see if the Town will vote to adopt the provisions of Chapter 48 as amended by Chapter 48-A:1 through 48-A:12, effective date Nov. 16, 1959 relative to minimum housing standards."]

Chapter 90

PARKS AND TOWN PROPERTY

**ARTICLE I
Bazaars in Schouler Park**

§ 90-1. Use restrictions.

**ARTICLE II
Carnivals in Schouler Park**

§ 90-2. Permitted activities.

**ARTICLE III
Whitaker Woods**

§ 90-3. Restricted and prohibited activities.

§ 90-4. Violations and penalties.

**ARTICLE IV
Schouler Park**

§ 90-5. Permitted uses; priority use.

§ 90-6. Required agreements and permits.

§ 90-7. Baseball and softball restrictions.

§ 90-8. Use and maintenance decisions.

§ 90-9. Smoking prohibited.

**ARTICLE V
Placement of Signs on Town Property**

§ 90-10. Findings.

§ 90-11. Placement prohibited.

§ 90-12. Removal authorized.

**ARTICLE VI
Whitaker Woods, Meeting House and Recreation Fields**

§ 90-13. Use of fields, woods and park.

§ 90-14. Use of Meeting House.

**ARTICLE VII
Public Use of Town Property**

§ 90-15. Hours of operation.

§ 90-16. Violations and penalties.

**ARTICLE VIII
Smoking on Town Property**

§ 90-17. Intent.

§ 90-18. Findings.

§ 90-19. Policy.

§ 90-20. Prohibitions.

**ARTICLE IX
Conway Community Building**

§ 90-21. Primary uses.

§ 90-22. Permitted general uses.

§ 90-23. Use restrictions.

[HISTORY: Adopted by the Town of Conway as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Alcoholic beverages — See Ch. 12.

Amusements — See Ch. 16.

Dogs and other animals — See Ch. 35.

Peace and good order — See Ch. 95.

Special events — See Ch. 120.

Seasonal and promotional decorations — See Ch. 125,
Art. V.

All-terrain vehicles — See Ch. 148.

ARTICLE I

Bazaars in Schouler Park

[Adopted 3-11-1958 ATM by Art. 23; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 90-1. Use restrictions.

The northeast corner of Schouler Park may be used for the holding of bazaars by those organizations that have been allowed to use it in the past, for nonprofit purposes, with no one organization having use of the park for a period exceeding 14 days.

ARTICLE II

Carnivals in Schouler Park

[Adopted 3-8-1984 ATM by Art. 16; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 90-2. Permitted activities.

Carnival-type activities may be permitted in Schouler Park under the guidance and supervision of the Park Commissioners and Board of Selectmen.

ARTICLE III

Whitaker Woods

[Adopted 3-1984]

§ 90-3. Restricted and prohibited activities.

The following activities are prohibited in Whitaker Woods, at North Conway, New Hampshire, a park of the Town:

- A. Use of motor vehicles, including but not limited to all automobiles, trucks, snowmobiles, all-terrain vehicles, Jeeps®, minibikes, motorcycles and all other motorized vehicles, but excluding therefrom those vehicles used for maintenance, improvements and/or patrol as authorized by the Selectmen.
- B. Kindling and/or keeping of open fires.
- C. Camping.
- D. Shooting with any weapon or firearm on or into said property shall not be allowed except under the supervision of a conservation officer or a Conway police officer.

§ 90-4. Violations and penalties. ¹

Any person or firm found violating the provisions hereof shall be fined in an amount as set from time to time by the Board of Selectmen, with the same to inure to the general fund of the Town.

ARTICLE IV
Schouler Park
[Adopted by the Board of Selectmen]

§ 90-5. Permitted uses; priority use.

Schouler Park may be used by the public and by community organizations for athletic events and activities as well as special events. Town of Conway recreation programs shall, however, have priority use of the park.

§ 90-6. Required agreements and permits.

Athletic events shall require a memorandum of agreement for the use of Town parks. Special events such as concerts, fairs, and expositions are allowed and shall require a special events permit approved by the Board of Selectmen.

§ 90-7. Baseball and softball restrictions.

With respect to baseball and softball, only boys' twelve-and-under baseball and girls' sixteen-and-under softball shall be allowed. No adult ball shall be allowed in the park.

§ 90-8. Use and maintenance decisions.

Policy decisions regarding the use of, or improvements to, the park shall be reviewed by the Parks Commission. After review, the Parks Commission shall forward a recommendation to the Town Manager.

§ 90-9. Smoking prohibited.

Smoking is prohibited within Schouler Park.

ARTICLE V
Placement of Signs on Town Property
[Adopted by the Board of Selectmen]

§ 90-10. Findings.

The Board of Selectmen finds that:

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- A. The Town of Conway has a substantial interest in protecting the aesthetic appearance of the community by avoiding visual clutter and in assuring safe and convenient traffic and pedestrian circulation on Town streets.
- B. Veterans memorials are places of honor that should be kept free of visual clutter and materials not directly related to the purpose of recognizing the sacrifices and contributions of veterans.

§ 90-11. Placement prohibited.

No sign, card, banner, handbill, poster, advertisement or notice of any kind shall be installed, placed or deposited within the boundaries of Town properties, including specifically Town parks and veteran's memorials; provided, however, that this section shall not apply to signs and/or street decorations authorized in accordance with the provisions of the Board of Selectmen's policy on seasonal decorations or special events. (See Chapter 125, Article V, of the Conway Town Code.)

§ 90-12. Removal authorized.

Any sign that is placed contrary to this policy or contrary to state laws prohibiting signs in state rights-of-way may be summarily removed by the Town and placed in storage; provided, however, that any sign determined to have a replacement value of less than \$50 may be immediately disposed of by Town personnel. Upon removal, the owner, if ascertainable, of any sign determined to have a replacement value of \$50 or more shall be promptly notified verbally or in writing. Upon failure of the owner to claim such sign and pay the expenses of removal and storage within 30 days after removal, the sign may be disposed of without any further notice to such owner. The Town of Conway will not be responsible for the condition of signs removed under this policy.

ARTICLE VI

Whitaker Woods, Meeting House and Recreation Fields
[Adopted by the Board of Selectmen 12-2-2000]

§ 90-13. Use of fields, woods and park.

Town of Conway recreation programs shall have priority use of the fields, woods, and park areas at the Whitaker Home Site. All other uses shall be subject to availability and scheduling by the Recreation Department. The fields and park areas may be used by the public and by community organizations for athletic events and activities. Such use shall require a memorandum of agreement for the use of Town parks or a special events permit, as appropriate. Special events such as concerts, fairs, and expositions shall not be permitted.

§ 90-14. Use of Meeting House.

The Whitaker Meeting House was constructed to serve as a community facility to be used for Town-sponsored recreational programs. It was specifically designed to be a warming hut for winter activities and as an office for the Town Recreation Department.

- A. The building shall be used for winter recreational activities such as cross-country skiing, hiking, and snowshoeing. The Town of Conway intends to provide a winter recreation program. Some activities within the program, such as cross-country skiing, will be conducted by the Town in cooperation with the Mount Washington Valley Ski Touring Association, the School District, the Eastern Slope Ski Club or other organizations.
- B. During the remainder of the year, the building shall be used for Department activities and as an administrative office by Town staff. It will provide bathroom and support services during Town-sponsored events and programs.
- C. Due to budgetary considerations, the building will not be available for general community use for such functions as meetings or special events sponsored by private for-profit or nonprofit groups. Specifically, the rest rooms will not be available for use by the general public.
- D. Smoking is prohibited within the Meeting House and all exterior areas of the property.

ARTICLE VII

Public Use of Town Property**[Adopted by the Board of Selectmen 7-9-2002]****§ 90-15. Hours of operation.**

Opening and closing hours for the following Town-held properties shall be set as follows:

- A. The following properties are to be open for general public use, consistent with other laws and regulations controlling the same, from 6:00 a.m. to 10:00 p.m. next following each day:
 - (1) Conway Lake Beach, Center Conway Village.
 - (2) First Bridge River Access Conservation Area, North Conway.
 - (3) Smith-Eastman Recreation Area, Redstone Village.
 - (4) Redstone Park, Redstone Village.
 - (5) Davis Park and Beach, Conway Village.
 - (6) Washington Street Park, Conway Village.
 - (7) Whitaker Woods, North Conway Village.
 - (8) Pudding Pond, North Conway Village.
- B. The following properties are to be open for the general public use, consistent with other laws and regulations controlling the same, from 6:00 a.m. to 11:00 p.m. next following each day:

- (1) Schouler Park, North Conway Village.
- C. At all other hours of each day, said above-named Town-held properties shall be closed to public use unless specially authorized in writing by the Board of Selectmen.

§ 90-16. Violations and penalties.

Anyone violating these regulations shall be chargeable with a violation under New Hampshire law.

ARTICLE VIII
Smoking on Town Property
[Adopted by the Board of Selectmen 7-9-2002]

§ 90-17. Intent.

The purpose of the following policy is to prohibit smoking at Town of Conway Recreation Department properties.

§ 90-18. Findings.²

To ensure the safety and well being of its constituents, the Town of Conway is committed to providing athletic skill building, fun and creative recreational activities in a tobacco-free environment. Tobacco is extremely unhealthy and addictive. It contributes to, or is a direct cause of, serious illness and fatal disease. Passive smoke is also unhealthy and categorized as a carcinogen that can contribute to serious illness for the nonsmoker. Furthermore, New Hampshire law, RSA 126-K:4, states that no person under 18 years of age shall purchase, use, or possess tobacco products; and New Hampshire law RSA 169-B:32 permits a juvenile age 12 or older, who is in possession of tobacco products, to be treated as an adult and given a District Court summons.

§ 90-19. Policy.

Policy objectives are:

- A. To set a good example for youth.
- B. To promote healthy living.
- C. To reduce the number of children who start smoking.
- D. To protect families from breathing secondhand smoke.

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 90-20. Prohibitions.

- A. The Town of Conway prohibits the smoking of any tobacco products by any individual, regardless of age, while on the Town Recreation Department properties listed below:
- (1) Conway Recreation Center.
 - (2) Whitaker Meeting House, Whitaker Woods and Whitaker Field.
 - (3) Smith-Eastman Park.
 - (4) Davis Park and Beach.
 - (5) Conway Lake Beach and parking lot.
 - (6) Schouler Park.
 - (7) Hussey Field.
- B. Signs will be posted so that the general public will be aware of this policy. Members of the public who do not adhere to this policy will be asked to leave the premises.

ARTICLE IX

Conway Community Building

[Adopted by the Board of Selectmen as last amended 7-9-2003]

§ 90-21. Primary uses.

The Town of Conway Community Building and grounds serve as a community facility to be used primarily for Town-sponsored recreational programs. Their use is largely oriented towards a variety of youth programs, including the Conway Teen Center. They also serve as administrative offices for the Town Recreation Department and for such Town functions as a polling place during elections.

§ 90-22. Permitted general uses.

The building and grounds are available for general community use for such functions as meetings or special events sponsored by private for-profit or nonprofit groups. Such use, however, shall not conflict with the primary uses of the facility. Specifically, there may be events or programs that are not compatible with use of the facility for youth programs. The Town Manager shall determine whether a program or event is compatible with Town youth programs.

§ 90-23. Use restrictions.

The following specific polices shall apply:

- A. The facilities of the Conway Community Building shall be open for all appropriate uses by the residents of the Town of Conway.

- B. All users of the community building will be required to enter into a user agreement.³
- C. The following rental user categories shall apply:
- (1) The Town of Conway and Conway precincts and affiliates are exempt from fees.
 - (2) All other organizations, groups or individuals, whether not-for-profit or for-profit, shall be subject to fees as set from time to time by the Board of Selectmen.⁴
- D. Ongoing use of the facility by a particular group is generally not permitted. The Town Manager, however, may make exceptions to this policy if, in his/her judgment, there is a community benefit to such ongoing use.
- E. Scheduling priority shall be given to Conway-based organizations. Use shall be at the discretion and convenience of the Recreation Department and Recreation Director and shall be subject to change or cancellation.

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 95

PEACE AND GOOD ORDER

ARTICLE I
Alcoholic Beverages; Loitering

§ 95-1. Public consumption of alcohol prohibited.

§ 95-2. Loitering on footwalks and sidewalks prohibited.

§ 95-3. Loitering near doors, windows or passageways prohibited.

§ 95-4. Loitering on private property prohibited; trespassing.

§ 95-5. Violations and penalties.

ARTICLE II
Urination in Public

§ 95-6. Prohibited conduct.

§ 95-7. Definitions.

§ 95-8. Violations and penalties.

[HISTORY: Adopted by the Town of Conway as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Alcoholic beverages — See Ch. 12.

Amusements — See Ch. 16.

Hawkers, peddlers and solicitors — See Ch. 62.

Parks and Town property — See Ch. 90.

Special events — See Ch. 120.

ARTICLE I
Alcoholic Beverages; Loitering
[Adopted by the Town of Conway]

§ 95-1. Public consumption of alcohol prohibited.

No person shall drink any alcoholic beverages or alcoholic liquor, as defined in RSA Ch. 175, upon any public street, highway, public sidewalk, municipal parking lot or municipal park within the limits of the Town of Conway.

§ 95-2. Loitering on footwalks and sidewalks prohibited.

Three or more persons shall not stand or loiter in a group or near each other on any footwalk or sidewalk in the Town so as to obstruct the free and unimpeded passage of foot passengers thereon; and any person obstructing any footwalk or sidewalk by standing or loitering thereon shall move on immediately on request of any police officer and shall not again return to the place from which he has been requested to move or stand in a group or loiter in that place or elsewhere on any footwalk or sidewalk, after being so requested to move.

§ 95-3. Loitering near doors, windows or passageways prohibited.

No person or persons shall sit, stand or lounge on a public way in or about any door, windows or passageways, except the owners or occupants of the premises, after having been requested by the owner, occupant or any police officer to depart therefrom.

§ 95-4. Loitering on private property prohibited; trespassing.

No person shall remain on private property after being requested to remove himself by the owner or occupant or if said property is posted to prohibit trespassing.

§ 95-5. Violations and penalties. ¹

Any person violating this article shall be fined in an amount set from time to time by the Board of Selectmen.

ARTICLE II
Urination in Public
[Adopted 3-12-1985 ATM by Art. 18]

§ 95-6. Prohibited conduct.

It shall be unlawful to urinate on any public property situated within the borders of the Town of Conway, New Hampshire.

§ 95-7. Definitions.

As used in this article, the following terms shall have the meanings indicated:

PUBLIC PROPERTY — Any way defined in RSA 259:125, II, any property owned by the Town of Conway and any property owned by the State of New Hampshire.

§ 95-8. Violations and penalties. ²

Any person violating this article shall be fined in an amount set from time to time by the Board of Selectmen, to inure to the Town for its general purposes.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 105

SEWERS

ARTICLE I Septic Systems

- § 105-1. Applicability.
- § 105-2. Wetlands setbacks.
- § 105-3. Surface water setbacks.
- § 105-4. Testing of certain systems.
- § 105-5. New systems.
- § 105-6. Fee schedule.
- § 105-7. Enforcement; violations and penalties.

ARTICLE II Septage

- § 105-8. Legislative authority; intent.

- § 105-9. Authority to adopt rules and regulations.
- § 105-10. Manner of adoption of rules and regulations; amendments.
- § 105-11. Violations and penalties.
- § 105-12. Amendments by Town Meeting and Selectmen.
- § 105-13. State rules; screening prior to application.
- § 105-14. Permits.
- § 105-15. Enforcement.
- § 105-16. Origin.
- § 105-17. Definitions.

[HISTORY: Adopted by the Town of Conway as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Site plan review — See Ch. 110.
Solid waste — See Ch. 115.

Subdivision of land — See Ch. 130.
Zoning — See Ch. 190.

ARTICLE I Septic Systems

[Adopted 3-19-1991; last amended 3-9-1993]

- § 105-1. Applicability.

All on-site septic systems in the Town of Conway shall be subject to the following.

- § 105-2. Wetlands setbacks.

All septic tanks and leach areas shall be set back a minimum of 100 feet from wetlands as defined by Chapter 190, Zoning, of the Conway Code.

§ 105-3. Surface water setbacks.

All septic tanks shall be set back a minimum of 75 feet and leach areas shall be set back a minimum of 125 feet from surface waters, including lakes, ponds, rivers and streams.

§ 105-4. Testing of certain systems. ¹

All septic systems which exist at the time of adoption of this article and which are within 125 feet of any Great Pond in Conway shall be tested by a licensed septic designer on or before December 31, 1992. The inspector shall use a standard inspection form provided by the Town and shall report the findings to both the owner and the Selectmen or their appointee.

§ 105-5. New systems.

In the event that an existing lot is developed or redeveloped, or an existing system is being replaced, and there is no possibility of meeting the setbacks listed in §§ 105-2 and 105-3 above, a septic system shall be allowed at the sole discretion of the state. New lots shall be created only if the standards listed in §§ 105-2 and 105-3 above can be met.

§ 105-6. Fee schedule.

The Board of Selectmen may establish a fee schedule to reimburse the Town for the cost of inspections.

§ 105-7. Enforcement; violations and penalties. ²

The Board of Selectmen and/or Health Officer shall be responsible for enforcement of this article. Violations may be fined in amounts as set from time to time by the Board of Selectmen.

ARTICLE II
Septage
[Adopted 3-9-1999]

§ 105-8. Legislative authority; intent.

This article is adopted pursuant to RSA 31:39 and RSA Ch. 147 for the purpose of better regulating and promoting the general health and welfare of the public and toward more prudent operations.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 105-9. Authority to adopt rules and regulations.

The Selectmen are authorized to establish and/or amend reasonable rules and regulations from time to time controlling hauling and disposal and land application of septage. Such rules and regulations may encompass fines for violation of the rules and regulations and all other reasonable rules and regulations necessary and/or appropriate toward the prudential management of said solid waste activity.

§ 105-10. Manner of adoption of rules and regulations; amendments.

The Selectmen may adopt and/or amend such rules and regulations from time to time, provided that at least two public hearings shall be held, with each hearing having published notices therefor at least two weeks prior to such hearing; after the second hearing, the Selectmen shall vote to adopt and/or amend such rules and regulations and record the rules and regulations so adopted and/or amended with the Town Clerk of Conway, and thereafter the same shall be valid and enforceable. In the notice of the second hearing, the entire proposed rules and regulations or amendments thereto shall be published, and only nonsubstantive changes may be made after the last hearing.

§ 105-11. Violations and penalties.

- A. Any violation of any provision of this article or the rules and regulations promulgated hereunder shall be subject to fines as set from time to time by the Board of Selectmen. Multiple offenses may subject the violator to revocation of a permit for one year.³
- B. Failure to comply with the penalties, as prescribed above, within five days of notification shall result in the immediate revocation of the permit until such time as the penalty has been complied with.
- C. Civil fines or actions assessed for a violation more than one year prior to a subsequent violation shall not be considered for purposes of determining whether or not a second or subsequent violation has occurred under this article. The date of payment of a civil fine or revocation of the permit shall determine the date of a violation hereunder.
- D. Should the Town find it necessary to take court action regarding any violation of this article, the cost of court action, including the Town's reasonable attorney's fees, shall be paid to the Town upon conviction. The Town may also enforce this article and the rules and regulations promulgated hereunder by injunction, restraining order or other appropriate action where such remedy is appropriate.

§ 105-12. Amendments by Town Meeting and Selectmen.

This article or any rules and regulations promulgated by the Selectmen may be amended by majority vote of the Town at any Town Meeting, the warrant for which gives notice of the proposed change. This shall not be deemed to otherwise limit the authority of the Selectmen

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

to adopt and/or amend rules and regulations consistent with the powers and procedure hereunder established or as may be amended at any such Town Meeting.

§ 105-13. State rules; screening prior to application.

- A. All rules and regulations governing septage shall be in accordance with the most current version of New Hampshire Code of Administrative Rules, Env-Ws 1600, Septage Management, hereafter referred to as the "State Rules."
- B. In addition to the State Rules, the Town shall require that all septage be screened prior to land application. Screening of the septage shall be performed such that no visible or identifiable plastics or other nonbiodegradable materials shall be applied to the land.

§ 105-14. Permits.

All septage haulers are required to file a copy of their state permit with the Town of Conway. It shall be the hauler's responsibility to ensure that current permits are on file with the Town. Permits are to be filed with the Town's Health Officer.

§ 105-15. Enforcement.

The Town's Health Officer shall enforce the provisions of this article.

§ 105-16. Origin.

Only domestic septage from the following towns shall be permitted for land application in the Town of Conway: Albany, Bartlett, Chatham, Conway, Eaton, Hales Location, Jackson, Madison.

§ 105-17. Definitions.

As used in this article, the following terms shall have the meanings indicated:

DOMESTIC SEPTAGE — Septage as defined in 40 CFR 503.9, and shall not include septage from hotels, motels, restaurants, food-processing institutions, commercial operations or industrial operations and does not include grease removed from grease traps.

Chapter 110

SITE PLAN REVIEW

ARTICLE I General Provisions

- § 110-1. Authority and scope.
- § 110-2. Purpose.
- § 110-3. Definitions.
- § 110-4. Applicability.

ARTICLE II Application Procedures

- § 110-5. Minor review.
- § 110-6. Full review.
- § 110-7. Preapplication meetings.
- § 110-8. Fees; consultant review.
- § 110-9. Submission of application materials.
- § 110-10. Approval of other governmental units.
- § 110-11. Public notice.
- § 110-12. Regional notice.
- § 110-13. Application acceptance.
- § 110-14. Applicant's presentation (optional).
- § 110-15. Public hearing.
- § 110-16. Decision.
- § 110-17. Notice of decision.
- § 110-18. Appeals.

ARTICLE III Design Standards

- § 110-19. Traffic generation and impact.
- § 110-20. Driveways and vehicular access.
- § 110-21. Parking.
- § 110-22. Parking lots.

- § 110-23. Loading.
- § 110-24. Snow removal.
- § 110-25. Pedestrian access and circulation.
- § 110-26. Lighting.
- § 110-27. Storm drainage.
- § 110-28. Utilities.
- § 110-29. Landscaping.
- § 110-30. Architectural design.
- § 110-31. Patron restrooms.
- § 110-32. Solid waste recycling and disposal.
- § 110-33. Historic sites and structures.
- § 110-34. On-site water supply.
- § 110-35. On-site sewage disposal.
- § 110-36. Wheelchair access.
- § 110-37. Floodplain construction.
- § 110-38. Site construction standards.
- § 110-39. Nuisances.
- § 110-40. Public health and safety.
- § 110-41. Outdoor display of goods.
- § 110-42. Plat notes required.

ARTICLE IV Administration

- § 110-43. Waivers and substitutions.
- § 110-44. Legal representation at meetings.
- § 110-45. Recording approved plans.
- § 110-46. Bonding.
- § 110-47. Approval required prior to site work.
- § 110-48. Certificates of occupancy.

§ 110-49. As-built plans.

§ 110-52. Compliance with other codes.

§ 110-50. Enforcement.

§ 110-53. Severability.

§ 110-51. Reconsideration of approval.

[HISTORY: Adopted by the Planning Board of the Town of Conway 1-14-1993; last amended 4-28-2011. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 23.

Subdivision of land — See Ch. 130.

Drainage systems — See Ch. 41.

Wind energy systems — See Ch. 179.

Sewers — See Ch. 105.

Zoning — See Ch. 190.

Streets and sidewalks — See Ch. 125.

ARTICLE I
General Provisions

§ 110-1. Authority and scope.

Under the authority of RSA 674:43 and authorization from the 1982 Town Meeting, as amended, the Planning Board repeals the previous Chapter 123 and its exemption policy and hereby adopts this new chapter on January 14, 1993. This chapter applies only to sites with nonresidential and/or multifamily residential uses.

§ 110-2. Purpose.

The general purpose of this chapter is to guide the character of nonresidential and multifamily development, redevelopment, expansion, and change of use in order to provide for the health, safety, convenience, prosperity, and general welfare of the Town's inhabitants, businesses and visitors. Throughout these regulations, the Board seeks to balance the demand for growth, development and change with the need to preserve and enhance those qualities that make Conway a safe and desirable place to live, work and visit. In keeping with this general purpose, the following are specific objectives of this chapter:

- A. To balance the landowner's rights to use his/her land with the corresponding rights of abutting landowners and the public at large to be protected from undue hazards, disturbances, nuisances, pollution and diminution of property values;
- B. To protect public safety by means such as requiring appropriate provision and arrangement of roads, driveways, sidewalks, traffic aisles, parking, loading areas and emergency vehicle accesses;
- C. To provide for fire safety and prevention;
- D. To protect and preserve significant natural and man-made features, including but not limited to scenic views, stone walls, large trees, and historic structures;
- E. To promote the harmonious and aesthetically pleasing development of the Town, ensuring visual harmony of neighborhoods, providing adequate provision of greenspace

and open space, protecting the natural beauty of the Town and enhancing the quality of life for residents;

- F. To maintain the vitality of the tourist economy while allowing economic growth in all sectors of the economy;
- G. To protect environmental quality by means such as controlling erosion and providing for sanitary sewage disposal; and
- H. To ensure the provision of adequate facilities and services as are necessary to serve the proposed uses.

§ 110-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ABUTTER — Any person whose property is located in New Hampshire or Maine and adjoins or is directly across the street or stream from the land under consideration by the Planning Board. For the purpose of receiving testimony only, and not for the purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his/her land will be directly affected by the proposal under consideration. For the purposes of receipt of notification, in the case of an abutting property being under a condominium or other collective form of ownership, the term "abutter" means the officers of the collective or association, as defined in RSA 356-B:3, XXIII.

APPLICANT — The owner of the property or an agent with the owner's written authorization. All actions of the agent shall be binding upon the owner.

BONDING — Any acceptable form of financial security. The specific dollar amount, the form, and any associated agreements or stipulations shall be negotiated directly with the Board of Selectmen.

DEVELOPMENT — The construction or improvements or change of use on a tract or tracts of land for nonresidential and/or multifamily use.

DISTURBED AREA — The area of land, excepting that covered by greenspace and building(s), changed by human construction activities.

GREENSPACE — A permeable area of vegetated ground surface.

INDUSTRY — A use engaged in manufacture, predominantly from previously prepared materials of finished products or parts, including processing, fabrication, treatment, packaging, storage, sales and distribution of such products.

MULTIFAMILY — Three or more residential units in one building.

PLAN — Any plan sheet other than a site sketch.

PLAT — A plan sheet to be recorded at the Carroll County Registry of Deeds to indicate final approval.

PLAT STANDARDS — Standards which dictate the content and presentation of plats and/or plans.

SIDEWALK SALES — Temporary outdoor sales of merchandise, including, but not limited to, art, food and clothing, within the sidewalk area of a retail use, on a temporary basis. "Temporary" shall mean seasonal, weekends, fair weather; not permanent.

SITE SKETCH — A scale drawing of a site.

STATE HIGHWAY — Any Class I, II, III or IV road.

TEMPORARY EVENT — An event whose occurrence is limited to not more than 14 days per calendar year.

TENT SALES — Sales of goods within a temporary structure with fabric or nonrigid walls or roof of cloth. For the purpose of these regulations, tent sales shall be considered temporary events.

TOTAL REQUIRED PARKING — The minimum number of parking spaces required by on-site uses.

§ 110-4. Applicability.

There are three possible applications of this code to development of a nonresidential or multifamily site to be determined by the designee of the Board:

- 1) The code is not applicable (Subsection A);
- 2) The Planning Board provides a minor review (Subsection B); or
- 3) The Planning Board provides a full review (Subsection C).

The following criteria specify the level of review necessary for a proposal to develop a commercial or multifamily site:

- A. Not applicable. The determination of "not applicable" by the designee of the Board shall mean that no site plan review approval is necessary, although other types of approvals or permits may be necessary per other municipal codes and an application shall be kept on file. The site plan review regulations shall be deemed not applicable for the following:
 - (1) Temporary events which require no permanent alterations to the site and which function safely within the approved configuration of the site as determined by the designee of the Board.
 - (2) Special events approved by the Board of Selectmen.
 - (3) Agricultural buildings as defined in Chapter 190, Zoning, of the Conway Code (see § 190-32, Definitions).
 - (4) Small undertakings where it is demonstrated that:

- (a) All proposed changes to the structure and/or site conform to all other applicable codes and reasonably conform to the site design standards of this chapter;
 - (b) Proposed changes do not increase the intensity of use on the site beyond the service capacity of existing on-site infrastructure (including but not limited to parking, traffic generation and septic loading);
 - (c) Any net reduction in greenspace on the lot is less than or equal to 200 square feet;
 - (d) Any increase in structure floor space is less than or equal to 100 square feet; and
 - (e) In order to ensure that cumulative impacts can be evaluated by the Planning Board in a public forum, this Subsection A(4) shall not be applied if its application, combined with prior applications since the latest review by the Planning Board, would result in a cumulative decrease of greenspace greater than 400 square feet or in a cumulative increase in structure floor space greater than 200 square feet.
- (5) Where the Planning Board finds that the change of use and/or physical changes to the site are insignificant relative to the existing development.
- B. Minor review. A minor review by the Planning Board shall be required for any development that does not qualify to be "not applicable" or "full review."
- C. Full review. Unless deemed not applicable pursuant to Subsection A(5), a full review by the Planning Board shall be required for the following:
- (1) Establishment of nonresidential use where no nonresidential use currently exists;
 - (2) Establishment of multifamily use where no multifamily use currently exists;
 - (3) Reduction in greenspace on the lot exceeds 1,000 square feet; or
 - (4) The increase in structure floor space exceeds 1,000 square feet or 25% of existing floor space, whichever is more restrictive.

ARTICLE II Application Procedures

§ 110-5. Minor review.

The application for a minor review shall be made to the Planning Board. The applicant shall follow the process specified in §§ 110-8 through 110-18 of this chapter. In the case of approved minor review applications, plans will not be recorded at the Registry of Deeds, unless required by the Planning Board. The following shall apply:

- A. Submit to the Planning Director a complete application in accordance with the checklist for application completeness.¹ Applicants are advised to utilize this checklist themselves to avoid submitting incomplete applications, which will cause delays. Note that other governmental approvals must be applied for at the time of application submission, though the actual permit or approval may be a condition of site plan review approval.²
- B. A site sketch must be prepared by the applicant for a minor review application. This sketch need not be prepared by a surveyor or engineer. The site sketch shall be drawn reasonably to scale such that it reasonably depicts the site. The applicant should use a tape measure to ensure distances are reasonably accurate, and all such measurements should be indicated on the sketch. If multiple sheets are needed, the applicant is advised to draw a base sketch and make copies of it. Additional information can then be written or drawn on the copies in contrasting colors.
- C. The Planning Director shall prepare a written review of the application and provide it to the Planning Board one week prior to application acceptance. The Planning Director shall be responsible for obtaining the input of other Town staff, although applicants shall be responsible for obtaining precinct input and approvals. Applicants and abutters may pick up at Town Hall a copy of the written review as soon as it is available to the Board.³
- D. Board members should visit the site to familiarize themselves with the site.

§ 110-6. Full review.

The application for a full review shall be made to the Planning Board. The applicant shall follow the process specified in §§ 110-7 through 110-18 of this chapter. In the case of approved full review applications, approved plans shall be signed and recorded at the Registry of Deeds. The following shall apply:

- A. Submit to the Planning Director a complete application in accordance with the checklist for application completeness.⁴ Applicants are advised to utilize this checklist themselves to avoid submitting incomplete applications, which will cause delays. Note that other governmental approvals must be applied for at the time of application submission, though the actual permit or approval may be a condition of site plan Review approval.⁵
- B. Plans and plats shall be prepared by New Hampshire licensed surveyors and possibly professional engineers for a full review application. The following are the standards which shall be met:

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- 1. **Editor's Note: The checklist is attached to the application form.**
 - 2. **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
 - 3. **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
 - 4. **Editor's Note: The checklist is attached to the application form.**
 - 5. **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**

- (1) Sheet size. Sheet size shall not exceed 24 inches by 36 inches.
 - (2) Scale. The scale of all plats shall be at least one inch equals 40 feet or larger (e.g., one inch equals 30 feet; one inch equals 20 feet, etc.).
 - (3) Supplemental plans. In the event that there are plan sheets accompanying the primary site plan plat, and because only the plat will be recorded at the Registry of Deeds, all supplemental plan sheets shall be referenced by title and latest date of revision on the plat to be recorded.
 - (4) NH licensed surveyors and professional engineers. The detailed boundary survey and other related survey information, including but not limited to setbacks, building locations and topography, shall be certified by a NH licensed surveyor regarding its accuracy. Road design, drainage, and floodplain construction shall be certified by a NH licensed professional engineer to meet all applicable standards and regulations. Certification shall be indicated on plans by professional stamp and the accompanying signature. In all cases, the plat to be recorded shall be certified by the surveyor and/or professional engineer.
- C. The Planner shall prepare a written review of the application and provide it to the Planning Board one week prior to application acceptance. The Planner shall be responsible for obtaining the input of other Town staff. Applicants may pick up at Town Hall a copy of the written review as soon as it is available to the Board.
- D. The Planning Board should conduct a site visit prior to application approval. When possible, this site visit shall precede application acceptance to ensure that the Board is familiar with the site prior to any discussions.

§ 110-7. Preapplication meetings.

Preapplication meetings are permitted for minor review and major review applications, and are highly recommended by the Board. Such meetings can identify potential problems in an application prior to major investments in site design by the applicant. Per RSA 676:4, II, all preapplication meetings are optional at the applicant's discretion and are separate and apart from the formal consideration of the application. The following shall apply:

- A. Preliminary conceptual consultation. This meeting shall be directed at a review of the basic concept of the proposal and suggestions that might be of assistance in resolving problems with meeting requirements during final consideration. Such consultation shall not bind either the applicant or the Board, and statements made by Board members shall not be the basis for disqualifying said members or invalidating any action taken. The Board and applicant may discuss proposals in conceptual form only and in general terms, such as desirability of types of development and proposals under the Master Plan. Such discussion may occur without the necessity of giving formal public notice, but such discussions may occur only at formal meetings of the Board.
- B. Design review. The Board and applicant may engage in nonbinding discussions beyond conceptual and general discussions which involve more specific design, planning and engineering details; provided that the design review may proceed only after formal public

notice to the public and all abutters. Statements made by Board members shall not be the basis for disqualifying said members or invalidating any action taken. The applicant shall pay appropriate public notice fees as specified in § 110-8B, and shall provide all required materials and information required for public notice per §§ 110-11 and 110-12.

§ 110-8. Fees; consultant review. ⁶

In accordance with RSA 676:4, I(g) and RSA 674:44, V, the applicant shall pay fees to compensate the Town for its expenses in processing, noticing and reviewing each application in accordance with the fee schedule adopted by the Board of Selectmen and amended from time to time.

- A. An application for a minor site plan review shall not be considered complete unless it includes a filing fee.
- B. An application for a full site plan review shall not be considered complete unless it includes a filing fee.
- C. All costs of notices, whether mailed, posted or published, shall be paid in advance by the applicant. Failure to pay costs shall constitute valid grounds for the Board to terminate further consideration and to disapprove the application without a public hearing.
- D. A Tax Map amendment fee shall be assessed for each plan sheet to be used to amend the Town's Tax Maps. Said fee shall be paid by the applicant prior to final approval.
- E. Applications that require an engineering review shall be assessed a fee. Said fee shall be paid by the applicant prior to final approval. In the event that the Town Engineer is not available to review an application, said review shall be performed in accordance with Subsection F.
- F. The Board may require special investigative studies, environmental assessments, a legal review of documents, administrative expenses and other matters necessary to make an informed decision. The cost of such studies and investigations shall be paid by the applicant prior to final approval or disapproval. The applicant shall submit funds based on the estimated costs to the Town prior to the Town procuring such studies and investigations. The individual or company engaged shall work for and report directly to the Town. The individual or company chosen shall be agreeable to both the Town and applicant.
- G. When a completed application is submitted to the Town, it will be reviewed by Planning Department staff. Comments will be made in writing and forwarded to the applicant. If the plans are resubmitted by the applicant without addressing the original comments and requests or if design does not conform to the Town's adopted standards, the applicant will be charged an additional fee. Said fee shall be paid by the applicant prior to final approval.
- H. A plan scanning fee shall be assessed to facilitate digitizing the final approved plans.

⁶ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- I. A Land and Community Heritage Program (LCHIP) surcharge fee of \$25 shall be assessed for any plans to be recorded. This fee shall be submitted in the form of a check payable to the Carroll County Registry of Deeds.

§ 110-9. Submission of application materials.

All materials to be submitted to the Planning Board for consideration shall be submitted prior to the meeting so that staff, Board members and abutters may have sufficient opportunity to review the application without unnecessarily delaying the proceeding of the meeting. The following shall apply:

- A. Application acceptance. In accordance with RSA 676:4, I(b), all materials required to constitute a complete application shall be submitted to the Town at least 22 days prior to the meeting at which it will be considered for application acceptance.
- B. Other public hearings. New materials shall be submitted to the Town at least 22 days prior to a meeting when a new public notice is required.
- C. Continued meetings. When consideration of an application is continued and new information is required, the Board shall specify the deadline for filing this new information. In no case shall it be less than 10 days prior to the meeting. The deadline shall be stated in the motion to continue.

§ 110-10. Approval of other governmental units.

The Planning Board shall not grant a final approval to an application until all other government permits and approvals are obtained. The only exception to this requirement shall be when state or federal permits require prior local approval. All applicants are advised to apply early for these other approvals to avoid unnecessary delays in obtaining Town final approval. (Note: Applicants unfamiliar with the Town of Conway should be aware that there are eight independent and sometimes overlapping municipal precincts within the Town, and that each may require permits or approvals for matters such as fire safety and water/sewer service.)

§ 110-11. Public notice.

Public notice pursuant to RSA 676:4, I(d) shall be required for site plan reviews. The public notice shall identify the property owner, the location, and a general description of the proposal.

- A. Public notice shall be required for the following:
- (1) Design review meetings;
 - (2) Meetings at which an application is considered for acceptance; and
 - (3) Meetings at which a public hearing is conducted.

- B. Public notice shall be mailed to the applicant, holders of conservation, preservation or agricultural preservation restrictions, the applicant's authorized representative, and each abutter at least 10 days prior to the meeting for which the notice is required. Such notification shall be mailed by certified mail.
- (1) Using the abutters list form provided by the Town, the applicant shall prepare a current list of abutters no sooner than five days prior to the submission of the application. In the case of an abutting property being under condominium or other collective form of ownership, the term "abutter" means the officers of the collective or association. It shall be the applicant's responsibility to ensure that the names and addresses regarding officers of a collective or association noticed under this article are current and complete. In the case of an abutting property being in another municipality, it shall be the applicant's responsibility to ensure that the names and addresses regarding those properties are current and complete; and
 - (2) The applicant shall provide an adhesive mailing label for each party on the abutters list, including the applicant and authorized representative.
- C. Public notice shall be posted at Town Hall and one other public place at least 10 days prior to the meeting.
- D. Public notice shall be published in a newspaper of general circulation. This notice shall be sent to the newspaper at least 10 days prior to the meeting.
- E. Continuation of a meeting or public hearing shall not require new public notice, provided that, at the prior hearing, the Board shall state the location, date, time at which the continued session will resume, and deadlines for the submission of new or updated materials.

§ 110-12. Regional notice.

In accordance with RSA 36:54 through 58, applications which might have a regional impact shall require additional notice and by state law require additional time for public notice.

- A. Determination of potential for regional impact shall be found only for applications which qualify for full review, and further which meet any of the following impacts:
- (1) Any portion of the property is located within 1,000 feet of the Town of Conway border;
 - (2) The proposal involves 10,000 square feet or more of new nonresidential floor space;
 - (3) The proposal involves 50 or more residential units;
 - (4) The proposal involves property located on a Great Pond which crosses municipal boundaries; or
 - (5) Other as the Board may reasonably determine.

- B. Notice shall be sent by certified mail 14 days in advance of the scheduled public hearing to the North Country Council and to each Town reasonably likely to be affected, with each governmental entity to be considered an abutter for purposes of computing public notice fees.

§ 110-13. Application acceptance.

Before an application is reviewed by the Board, it must be accepted by a formal vote of the Board. The applicant shall attend this meeting to ensure that questions can be answered and issues clarified if necessary. Per RSA 676:4, I(b), the Board shall vote to accept the application only if it determines that the application is complete per this chapter, and such decision must occur within 30 days of application submission per RSA 676:4, I(c). Upon acceptance, review of the application may proceed. If an application is not accepted, the Board may proceed with design review, but as stated in § 110-7, such discussion shall not be binding on the applicant or Board. The design review meeting may be continued to another date for application acceptance without further notice.

§ 110-14. Applicant's presentation (optional).

Following application acceptance, at each meeting, the Board shall offer an applicant no more than 10 minutes in which to make a general presentation to the Board and the audience. The applicant is solely responsible for bringing any audiovisual materials and equipment needed. This presentation should include a brief description of the proposed project and a general description of the design, layout, and so forth. This is not the forum to raise specific issues, so the presentation should remain general. The presentation will be cut off at 10 minutes to avoid unnecessary delay to subsequent applicants.

§ 110-15. Public hearing.

The Board shall open a public hearing following application acceptance and the applicant's presentation (if any). The purpose shall be to solicit public input, comments, questions and concerns. The Chairman may temporarily suspend public comment during the public hearing to allow the Board time to deliberate, vote on waivers, and so forth. The public hearing may be continued if an additional meeting is required. Only when all pertinent, new public input is complete shall the hearing be closed. The applicant shall be responsible for attending the public hearing, including all continuations, to ensure that questions can be answered and issues clarified if necessary.

§ 110-16. Decision.

Pursuant to RSA 676:4, I(c), the Board shall issue a decision within 65 days of application acceptance, subject to time extensions as per RSA 676:4, I(f). Applications that are not accepted require no decision. The Board must approve, conditionally approve, or deny the application, as follows:

- A. Approval. The Board shall grant approval to an application when it fully complies with this chapter, including both design standards and compliance with procedures, subject to waivers granted and grandfathered rights.
- B. Conditional approval.
- (1) The Board may grant conditional approval to an application when minor additional action by the applicant will bring the application into full compliance for approval. This may include payment of fees, changes in design, and other matters, subject to the requirements of RSA 676:4, I(i):
 - (a) Minor plan changes, whether or not imposed by the Board as a result of a public hearing, compliance with which is administrative and which does not involve discretionary judgment; or
 - (b) Conditions which are in themselves administrative and which involve no discretionary judgment on the part of the Board; or
 - (c) Conditions with regard to the applicant's possession of permits and approvals granted by other governmental units.
 - (2) Conditional approvals shall be assigned an expiration date which is coincident with a regularly scheduled meeting not more than 90 days from the date when the conditional approval is granted. The Planning Board may, at its discretion, extend the expiration date beyond 90 days. However, in no case shall the expiration date be extended beyond one year from the original date when the conditional approval was granted unless the Planning Board for good cause agrees to extend the conditional approval for an additional period of time beyond that one-year period.
- C. Disapproval. The Board shall disapprove an application when it fails to comply with the design standards or procedures of this chapter, for failure to meet reasonable deadlines established by the Board, or for failure to pay fees. If the Board includes the phrase "without prejudice" in the motion to disapprove, it signifies that the application was denied for procedural reasons rather than design reasons, and that it may be resubmitted without design changes as a new application to the Board at a later date.

§ 110-17. Notice of decision.

As required by RSA 676:3, within 72 hours of the meeting the Town shall issue a notice of decision which states the final decision reached by the Board regarding the application. In the case of a conditional approval, the notice of decision shall state all conditions to be met for final approval. Upon fulfillment of the stated conditions, the Board shall issue a new notice of decision stating that all conditions have been satisfied, and shall sign and record the plats if applicable. In the case of a denial, the notice of decision shall state the reasons for denial as required by RSA 676:4, I(h) and RSA 676:3, I.

§ 110-18. Appeals.

Any person aggrieved by any decision made in the course of applications pursuant to this chapter may appeal as follows:

- A. A staff decision regarding a staff review may be appealed to the Planning Board. This appeal shall be made in writing and must be submitted to the Town within 30 days of the issuance of the notice of decision. The Board shall, at its own expense, hold a noticed public hearing to determine if it upholds or overturns the decision.
- B. Any decision of the Board may be appealed to Carroll County Superior Court in accordance with RSA 677:15.

**ARTICLE III
Design Standards**

§ 110-19. Traffic generation and impact.

(Reserved)

§ 110-20. Driveways and vehicular access.

To ensure site safety and to protect the safety and capacity of the road network, the following standards are established to control site access:

- A. Any property having access onto a state highway shall obtain a state driveway permit or a letter from the NH DOT stating that such permit is not necessary given the scope of the current application.
- B. Any property having access onto a Town highway shall obtain a Town driveway permit or a letter from the Public Works Director stating that such permit is not necessary given the scope of the current application.
- C. A lot shall have no more than one driveway onto each road on which it fronts, except that a pair of one-way driveways (one each entrance and exit) which are adequately designed, signed and marked as being one-way may be substituted for a single two-way driveway, and except as permitted in Subsection D below.
- D. Due to access needs of industry, industrial uses in the Industrial-1 District may have multiple driveways, provided that they are not located within 100 feet of any other driveway on- or off-site.
- E. All commercial driveways shall be paved with bituminous concrete.
- F. Driveways shall be in accordance with Chapter 130, Subdivision of Land, § 130-67C(8), of the Conway Code.
- G. For commercial sites, there shall be connecting drives (not considered driveways when calculating the limit on the number of driveways) provided to the property boundaries of

adjoining commercial sites to permit access to adjacent properties without forcing patrons to travel on the road network.

- H. In the case of a concurrent subdivision and site plan or where otherwise feasible, shared driveways for adjacent lots shall be required. All shared driveways shall require a recorded cross-easement for access.
- I. The Board may require the frontage of the property and the driveway to be curbed if it will improve traffic control and safety. Curbing shall be granite.

§ 110-21. Parking.

Off-street parking spaces shall be provided in accordance with these specifications for any change of use, new use, or expansion. In no case shall on-street parking be credited for any site because its availability is subject to change over time based on the public need to use the right-of-way for other, possibly conflicting, uses.

- A. Number of spaces. Each site shall provide at least the minimum number of parking spaces for the site, determined as follows:
 - (1) The following minimum standards shall apply:

Use	Spaces Required
Church, school, theater	1 per 3 seats
Lounge	1 per 2 seats
Restaurant	1 per 3 seats
Hospital, nursing/convalescent home	1 per 3 beds plus 1 per 3 employees on day shift
Industrial	1 per 1.2 employees based on maximum shift
Hotel, motel, lodging house	1.1 per lodging unit
Private club or lodge	1 per 4 members
Office	1 per 250 square feet of gross area
Business service establishment	1 per 250 square feet of gross area
Residential	2 per unit
Retail	1 per 200 square feet of gross area
Personal service establishment	1 per 200 square feet of gross area
Mall	1 per 200 square feet of gross area

- (2) Alternative standards. Per § 110-43 regarding waivers and substitutions, the following parking standards may be suitable for substitution:
 - (a) Parking Requirements for Shopping Centers; Summary Recommendations and Research Study Report. Urban Land Institute. Washington, 1982.

- (b) Shared Parking. Urban Land Institute. Washington, 1990.
 - (c) Parking Generation. Institute of Transportation Engineers. Washington, 1987.
- B. Credit for public parking lot. In the event that there is a public parking lot within 400 feet, the amount of parking to be provided by the applicant may be reduced by up to 20% of the total required, as defined by Subsection A above, to account for patron use of the public lot. In no case shall the number of spaces credited to the public parking lot exceed 10% of the total number of spaces in the public lot.
- C. Parking reduction. (Reserved)
- D. Parking space location. Of the total number of parking spaces required, off-site parking on a separate private lot of record shall be permitted in lieu of on-site parking when the following conditions are met:
- (1) The parking spaces on the other lot of record are located within 400 feet of the parking area on the applicant's lot;
 - (2) The other parking is off-street;
 - (3) The applicant's use is permitted in the zoning district in which the off-site parking is located;
 - (4) The lot providing the parking documents that excess parking spaces are available based on parking standards in this code; and
 - (5) A recorded parking easement which specifies the number and location of parking spaces is provided.
- E. Minimum number of handicap parking spaces. Each site shall provide the appropriate number of handicap parking spaces in accordance with 2010 ADA standards for accessible design, as amended.⁷

§ 110-22. Parking lots.

Parking lots shall meet the following design requirements, in addition to any other applicable design requirements contained in this chapter:

- A. Aisle widths. Minimum aisle widths in parking lots shall be 18 feet for one-way aisles and 24 feet for two-way aisles.
- B. All parking lots, loading areas and travel aisles shall be paved with bituminous concrete.
- C. Parking space dimensions. Minimum parking space sizes shall be nine feet wide by 18 feet long. Handicap parking spaces shall be 11 feet wide by 18 feet long and must adjoin a five-foot access aisle, which may be shared by adjoining handicap parking spaces.

7. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- D. Traffic control islands. In any parking lot, no more than two travel aisles, one-way or two-way, may run generally parallel to one another without separation by a raised, curbed traffic control island which runs parallel to and the full length of the aisles. Traffic control islands shall be a minimum of 12 feet in width. At the ends of each traffic control island there shall be twelve-foot-wide raised islands that shall extend (on both sides, if parking rows are double) the full length of the parking stalls. The applicant, if desired, may shorten the main traffic control islands no more than 14 feet at each end to better allow for the removal of snow. If the main traffic control island is proposed to be shortened, pavement markings will be required to prohibit through-traffic. The Board may require additional traffic control islands to prevent or correct traffic safety problems. Curbing shall be granite.
- E. Traffic circulation. The parking lot design shall be such that there is safe and adequate traffic circulation and room to stack exiting vehicles separate from the entering traffic lane(s).

§ 110-23. Loading.

- A. All nonresidential sites shall provide off-street loading facilities. These facilities shall be located and designed to minimize traffic flow disruptions of entering and exiting vehicles, and so that delivery vehicles can be parked completely out of the right-of-way.
- B. Outside facilities for trailers, vehicles or other portable structures (including containers) used for storage or warehousing of goods or material shall be screened from sight from abutting properties and streets by means of an opaque or vegetated buffer approved by the Board. The facility and buffer shall be represented on an approved site plan. The square footage of the facility is deemed as disturbed area and shall be considered in the parking demand calculations.
- C. For construction projects having a valid building permit, a trailer located on the site for the lesser of one year or the life of the building permit, provided that it is a necessary convenience for the construction project and that no public safety or health hazards shall be created, is not subject to this section.

§ 110-24. Snow removal.

Snow removal shall be considered for all sites, and the general plan for snow removal shall be indicated in a note. Locations for snow storage shall be designated on the plat, or there shall be a note indicating that all snow shall be removed from the site. In no case shall snow be stored on a landscaped area in which the snow pile could destroy the landscaping.

§ 110-25. Pedestrian access and circulation.

All sites shall provide for safe pedestrian access and circulation. Such provision shall include sidewalk access to existing street-side sidewalks if applicable, pedestrian aisles through parking lots and other facilities as are appropriate for the site.

§ 110-26. Lighting.

Lighting of sites shall be designed to prevent off-site disturbance, nuisance or hazard. All outdoor light sources shall be designed, directed and/or shielded such that the nighttime lighting is primarily contained on the site, shielding, to the extent necessary, abutting properties and roads. No light source shall be permitted if that light causes glare or other safety problems on an adjacent street.

- A. Outdoor lighting fixtures shall not be mounted higher than 25 feet.
- B. Individual light fixtures (or the sum for clusters of fixtures supported on a single pole) shall not exceed 40,000 lumens. As an incentive to promote the use of energy-efficient light emitting diode (LED) fixtures, if site lighting is comprised entirely of energy-efficient LED fixtures, the maximum illuminance of individual light fixtures (or the sum for clusters of fixtures supported on a single pole) may be increased by 25% and shall not exceed 50,000 lumens.
- C. The total initial site lumens of all site lighting systems shall not exceed four lumens per square foot of disturbed area. As an incentive to promote the use of energy-efficient LED fixtures, if site lighting is comprised entirely of energy-efficient LED fixtures the total initial site lumens of all site lighting systems may be increased by 10% and shall not exceed 4.4 lumens per square foot of disturbed area.
- D. Site lighting shall not trespass beyond property lines; luminance along property lines shall be measured within six feet of finish grade along the property line.
- E. All lighting fixtures shall be listed as approved by the International Dark Sky Association (IDA), fully shielded and installed per manufacturer's specifications.
- F. The Board may reduce the permitted heights to reduce or eliminate undue adverse impacts.

§ 110-27. Storm drainage.

Storm drainage of the site shall be designed with provisions for retention and gradual release of stormwater. This shall include provisions for upgrading the existing drainage system if it is inadequate. All additional stormwater and runoff which results from the proposed development shall be retained on-site and shall not drain onto adjacent properties, roads or waterways. Drainage plans and calculations, prepared and certified by a licensed NH professional engineer, shall be submitted with the application. Drainage facilities shall be designed to accommodate a twenty-five-year storm event. Where drainage is being calculated for a compacted gravel surface such as a parking lot, the calculations shall reflect a paved surface so that future paving of the lot does not significantly alter the drainage of the site.

§ 110-28. Utilities.

To enhance the design of the site and the Town, all utility systems shall be placed underground in conformity with the terms and specifications of the utility company involved under the following circumstances:

- A. For new development or new buildings; and
- B. For expansions of greater than 5,000 square feet or 50%, whichever is more restrictive, of floor space.

§ 110-29. Landscaping.

Every lot shall comply with the following standards in order to: enhance site design; enhance privacy; separate, screen and shield potentially conflicting land uses or abutters from undue impact; reserve a portion of the lot to remain undeveloped, permeable, and vegetated; control excessive stormwater runoff; prevent soil erosion and pollution of water bodies; reduce heat, glare and dust; not detract from the Town's aesthetic qualities; and help integrate the built environment with the natural environment.

- A. Buffer areas. Every lot shall reserve a buffer area along and within its perimeter boundaries in accordance with the following:
 - (1) The buffer area shall be defined as that area within the front, sideline, and back lot line setbacks as specified in Chapter 190, Zoning, of the Conway Code, and 100 feet from the platted right-of-way of the North-South Road between the extension of the center line of Barnes Road and the center line of Depot Road, except as limited in Subsection A(5) below, and setbacks from natural resources (such as from rivers or lakes) shall not apply;
 - (2) The buffer area shall be vegetated, except for driveways and other features approved by the Board;
 - (3) The buffer area shall not be used for merchandise display, vehicle parking or storage, or any other use which conflicts with the purpose and standards of this landscaping section;
 - (4) Driveways shall cross the buffer areas at an angle of 90° +/-15° to the perimeter boundary;
 - (5) In the Conway Village Commercial and North Conway Village Commercial Districts, the buffer shall not include the area within the front setback. The purpose of this exception is to permit activities related to the primary use within this area, such as outdoor restaurant seating or merchandise display. Such uses shall require Board approval under this chapter, and related site improvements such as additional parking and drainage shall be required; and
 - (6) In order to mitigate nuisance to abutting residential uses and residentially zoned lands, the Planning Board may increase the buffer depth to as much as 50 feet. The Board may also require additional mitigation (including but not limited to vegetation and fencing) or a combination of mitigation strategies to protect abutting residential properties.
- B. Greenspace. In all zoning districts, greenspace shall comprise no less than 25% of the total lot area, exclusive of wetlands, water bodies, one-hundred-year floodplains (or

ten-year floodplains adjacent to Pequawket Pond), and slopes over 25%, except as permitted in Subsection B(1) below.

- (1) In the Industrial-1 District, greenspace shall comprise no less than 25% of the total lot area, inclusive of wetlands, one-hundred-year floodplains (or ten-year floodplains adjacent to Pequawket Pond), and exclusive of slopes over 25% and water bodies.
- C. Industrial uses in the Industrial-1 District shall plant, at a minimum, trees 50 feet on center in the rear and side setback areas. Trees shall be planted 25 feet on center in all front setback areas. Where buffer areas are adjacent to sites that are landscaped, every effort shall be made to stagger tree plantings such that they fill in the existing voids on the adjacent site. Additionally, every effort shall be made to save existing trees on site. Additional tree plantings may be required by the Board to screen the visual impact of buildings and to aid in noise reduction.
- D. Trees. All lots regulated by this chapter (except those subject to Subsection C) shall have trees in accordance with Subsection D(1) through (11) below.
- (1) Trees, either newly planted or existing on the lot, shall be provided at the rate of one tree per 500 square feet of disturbed area, provided that, in the case of an expansion of an existing site, credit for existing trees shall be granted only for trees which the applicant demonstrates are in excess of the requirements for the existing site under this chapter;
 - (2) To be credited as landscaping, a tree shall have a caliper of at least three inches at a point six inches above the top of the root ball;
 - (3) Credit for landscaping shall only be given to existing trees within 70 feet of the proposed main structure(s) or parking lots;
 - (4) For existing trees which will be preserved, those with a caliper of 12 inches or more may be credited by the Board as two trees, and those with a caliper of 24 inches or more may be credited by the Board as four trees, provided the applicant complies with the relevant provisions of Subsection D(4), (5), (6), (7), (8) and (9) below;
 - (5) To be credited as landscaping, any tree which is planted within 25 feet of a street right-of-way shall not be of a salt-sensitive species, and appropriate documentation shall be presented with the landscaping plan;
 - (6) A minimum of 50% of the total number of required trees for the entire site shall be located in islands and along the borders of the required parking lot(s);
 - (7) Lots which require traffic control islands pursuant to § 110-23 shall locate at least 10% of the total number of required trees for the entire site within the required traffic control islands;
 - (8) Street trees are required to be planted as part of the landscaping required herein. Salt-tolerant trees as defined in the manuals referenced in Subsection D(10) below, of at least three-inch caliper measured at a point six inches above the root ball,

shall be planted within 15 feet of the edge of the pavement of all public rights-of-way, at a rate of at least one tree per 50 feet of right-of-way. Accordingly, trees should be planted 50 feet on center. Trees shall be planted between the road and the sidewalk where practical. A minimum of two street trees shall be required per lot. The Planning Board shall provide guidance as to the planting location of all proposed street trees;⁸

- (9) Tree size and planting locations shall be selected so that the tree, upon reaching its mature size, shall not interfere with existing overhead utility lines, unless, as a part of the application, the overhead lines are to be relocated;
- (10) Planting and transplanting of trees shall be in accordance with accepted horticultural standards, as specified in The Planting and Care of Shade Trees (Maine Forest Service and NH Cooperative Extension Service, Bulletin No. 10, June 1985), or an equivalent technical manual approved by the Board; and
- (11) Existing trees that are to be credited as landscaping shall be protected during site construction activities. A snow fence shall be erected around the tree to protect the roots from soil compression and to help prevent branches from being broken. No storage of any materials or driving of any vehicles within the fenced-in area shall be permitted. The fence shall be no closer to the trunk of the tree than 8.5 feet, and additional distance may be required if the Board deems it necessary to carry out the purposes of this section. In addition, an undisturbed 8.5-foot radius shall be preserved around each existing tree that is to be credited as landscaping, measured from the trunk.

E. General standards. The following general standards shall apply to all lots:

- (1) Landscaping shall not obstruct the line of sight, or create other hazards for vehicular and pedestrian traffic;
- (2) Snow storage shall not be allowed in areas where the trees could be damaged or destroyed; and
- (3) Shrubs, flower beds and other vegetative landscaping shall be permitted at the property owner's discretion. Suitable vegetative ground cover shall be maintained to ensure soil stability.

§ 110-30. Architectural design.

- A. The purpose of these regulations is to provide design standards for developments or renovations of commercial properties that complement the overall New England-style ambiance of the community. The regulations are directed towards, but are not limited to, assisting corporate franchises and commercial developments in the design of structures that reflect the small-town New England atmosphere unique to Conway. Consideration must be given to human scale and pedestrian orientation for the design or renovation of a commercial structure.

8. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- B. These regulations are not intended to restrict imagination, innovation or variety in the new construction or renovation of commercial buildings and related property, but rather to encourage continued economic development, conserve property values, and further enhance the visual appearance of the community. These regulations (§ 110-30) do not apply to buildings in the Industrial-1 and Industrial-2 Districts.
- C. The regulations contained herein do not expect to foresee all possible proposed building situations. Decisions concerning such unforeseen situations will be made with these regulations in mind.
- (1) Monotony of design or warehouse-style structures shall be avoided. Variation in detail, form and siting shall be used to provide visual interest. In order to prevent the construction of warehouse-style buildings, i.e., buildings with long, horizontal roof lines, all new buildings and additions shall have pitched roofs of 3:12 or greater or gabled roofs, where practical.
 - (a) In cases where pitched roofs are not practical, the use of false building fronts shall be used to imitate pitched roofs to vary the horizontal lines along portions of the facade to create the appearance of multiple attached buildings. All sides of a structure should receive design consideration. A facade unrelated to the rest of the building is not an acceptable design.
 - (b) In large commercial structures (over 200 feet in length), building elevations shall be designed to give the appearance of multiple attached buildings.
 - (c) In any case, all rooftop mechanical units shall be located so as not to be visible from street level or from public areas from ground level.
 - (2) The exterior surfaces of all buildings shall be covered with wood, stone, brick or man-made materials that simulate natural materials (such as architectural concrete masonry units). Pitched roofs shall be constructed of shingles, metal roofing or other materials traditionally used in this region.
 - (3) Windows shall comprise no less than 5% of the exterior wall surface of the portions of the building facing either a public right-of-way, parking area, or a development area on or off site. Windows may be used for either interior illumination or for display purposes. This guideline will be waived if it is shown that the windows will serve no useful function and will interfere with an otherwise acceptable architectural design.

§ 110-31. Patron restrooms.

Any business or group of businesses on one lot, with 5,000 or more square feet of floor space open to the public, shall provide restrooms for its guests, invitees and customers. Multiple commercial businesses on the same lot may have common restrooms reasonably located, so long as they are adequately designed to serve all guests, invitees and customers for all such commercial businesses on said lot.

§ 110-32. Solid waste recycling and disposal.

All sites shall provide solid waste facilities for both recycling and disposal as necessary to serve the site. All such facilities shall be screened from sight from abutting properties and streets by means of a fenced or landscaped enclosure, and the type of facility shall be labeled on the plan. In all cases, facilities shall be selected and operated to minimize windblown litter problems.

§ 110-33. Historic sites and structures.

It is requested, though not required, that applicants make every reasonable attempt to preserve, enhance and reuse historic sites and structures.

§ 110-34. On-site water supply.

In areas not served by municipal water, provisions for on-site water supply shall be indicated. The well location and its protective radius as required by the state shall be indicated on the plat. Areas within the protective radius which do not fall within the lot shall require wellhead protection easements, recorded at the Carroll County Registry of Deeds, prior to approval, and the book and page number of these easements shall be indicated on the plat.

§ 110-35. On-site sewage disposal.

In areas not served by municipal sewage disposal, provisions for on-site sewage disposal shall be indicated. A state-approved septic system design is required prior to final approval, and the approval number shall be indicated on the plat.

§ 110-36. Wheelchair access.

Adequate provisions shall be made to provide for wheelchair access on the site and into structures and site uses, unless the applicant can document that such access is not required by the Americans with Disabilities Act of 1990 (ADA). This shall include the following:

- A. Curb ramps shall be provided as necessary.
- B. Access aisles adjoining handicap parking spaces shall be paved (with asphalt, concrete or other suitable material for wheelchair travel) flush to the ground, and the pavement shall extend all the way to the nearest wheelchair-accessible entrance. Handicap parking spaces shall be located adjacent to wheelchair-accessible entrances.
- C. Handicap parking spaces shall be identified by painted marking on the surface of the pavement, and by a separate permanent sign posted in front of or next to the space, with a sign height of at least five feet but not more than eight feet.
- D. Wherever practical, the main entrance shall be wheelchair-accessible.
- E. It is recommended, though not required, that a "drop-off" area be located at wheelchair-accessible entrances.

- F. Where necessary, wheelchair ramps shall be provided, with a slope not to exceed one foot of rise per 12 feet of run, and a width as required by the ADA.
- G. The slope of a handicap parking space and adjoining access aisles shall not exceed one foot of rise per 20 feet of run.

§ 110-37. Floodplain construction.

For sites within the one-hundred-year floodplain, provisions shall be made to minimize flood damage and exposure to flood hazards on and off site in accordance with Chapter 190, Zoning, of the Conway Code if any development is permitted at all.

§ 110-38. Site construction standards.

Construction requirements for roads, parking areas, bridges, sidewalks, and drainage facilities shall be in accordance with the Standard Specifications for Road and Bridge Construction, as published by the State of New Hampshire Department of Transportation and the road standards of Chapter 130, Subdivision of Land, of the Conway Code. In cases where alternative construction specifications are suggested by the applicant, the Planning Board shall determine which shall be applicable.

§ 110-39. Nuisances.

In unique circumstances where these regulations do not address specific site design matters which, if not regulated, would constitute a serious nuisance to abutters or the public, the Planning Board may, solely at its option, place reasonable restrictions on the site design to prevent or reduce the nuisance. The burden of proof shall be on the complainant to adequately document the nuisance condition prior to any action of the Board. The Board must then weigh the significance of the nuisance against the effect which corrective measures would have on the applicant. Any time this provision of this chapter is invoked by the Board, a written explanation of the facts, circumstances and findings of the Board shall be accepted by a formal vote of the Board, and this shall be retained in the file in case of future legal actions.

§ 110-40. Public health and safety.

In unusual circumstances where these regulations do not address specific site design matters which, if not regulated, would constitute a threat to public health or safety, the Planning Board may place reasonable restrictions on the site design to prevent or reduce the threat. Any time this provision of this chapter is invoked by the Board, a written explanation of the circumstances and findings of the Board shall be accepted by a formal vote of the Board, and this shall be retained in the file in case of future legal actions.

§ 110-41. Outdoor display of goods.

The purpose of this section is to regulate outdoor merchandise sales and displays.

A. Sale areas shall meet the following criteria:

- (1) Site plan approval shall be required for all sales regulated by this chapter.
- (2) The maximum allowable outdoor sale area shall be the lesser of 5% of the interior floor area or 1,000 square feet.
- (3) Only one sale area shall be allowed per business.
- (4) Sale areas shall not be permitted within any public or private right-of-way.
- (5) Sale areas shall be located within covered sidewalk areas if they exist. In cases where an uncovered sidewalk or no sidewalk exists, sale areas shall be located within five feet of the building, separated from all parking areas by at least five feet.
- (6) Such uses shall comply with all Town-adopted building, fire, life safety and ADA codes at the time of application.

B. This section shall not in any way supersede the guidelines set forth in § 110-30.

§ 110-42. Plat notes required.

The following notes shall be required to be placed on all site plans prior to final approval:

- A. "The landscaping of the site depicted on this plan is integral to the approval by the Conway Planning Board, and shall be reasonably maintained and, when dead or removed, must be reasonably replaced."
- B. "The owner has represented to the Conway Planning Board and depicted or noted hereon all known restrictions and easements applicable to this land. All applicable restrictions and easements of record for this land, whether or not depicted or noted hereon, shall not be affected or modified by the approval hereunder."
- C. "The applicant has designed this site to safely accommodate maximum length vehicles and trucks, either delivering to, or using the facility."
- D. "All snow shall be stored in the area(s) depicted on this plan as snow storage areas. In the event that the area(s) approved for snow storage becomes full, the owner shall reasonably remove excess snow from the site and shall not allow snow to be stored within parking lots or travel aisles."
- E. "All waste materials and recyclables shall be contained within the building(s) or approved storage facilities and shall not be otherwise stored on the property."

ARTICLE IV
Administration

§ 110-43. Waivers and substitutions.

- A. The Board may grant a waiver of any design requirement or plat standard of this chapter in accordance with the following:
- (1) The applicant shall provide a written request for waiver. The request shall indicate the exact section for which the waiver is requested, the extent of the waiver, and the justification.
 - (2) In evaluating the request, the Board shall not grant the waiver unless it finds, based upon evidence presented to it, that:
 - (a) Granting of the waiver shall not be detrimental to the public health, safety or general welfare;
 - (b) Granting of the waiver shall not, in the opinion of the Board, be injurious to other parties;
 - (c) Granting of the waiver shall not have the effect of nullifying the intent and purpose of this chapter; and
 - (d) Strict compliance with the regulations would cause a hardship to the applicant solely because of the unique physical characteristics of the site (financial hardship shall not be considered); or
 - (e) The Board determines that granting the waiver would result in substantial public benefit.
 - (3) A waiver request shall be considered only at or after a noticed public hearing by the Board on the subject application, and at which the waiver request is presented or discussed, so that abutters have an opportunity to be made aware of all waiver requests.
 - (4) The Board may condition any waiver granted so as to secure the objectives of this chapter.
 - (5) The request for waiver shall be granted only when a motion to grant the request, duly seconded, is carried by a majority of the members present and voting. If the motion is not carried, the request is denied and no further motion is required. If no action is taken on the waiver request, it shall be deemed to be denied.
- B. In the event that alternative design standards which are independently and scientifically derived are provided to and accepted by the Board, the Board may permit their substitution for the Town design standard. Such substitution shall be permitted at the Board's option only when, in the Board's opinion, the alternative standard would better accomplish the intent of this chapter for this case. Substitution shall require a formal motion of the Board, and the minutes of the meeting should indicate the Board's reasoning for future reference. No waiver is required for design standard substitution.

§ 110-44. Legal representation at meetings.

If the applicant will have an attorney present at a Planning Board meeting, written notice shall be provided to the Board at least seven days in advance of the scheduled meeting so that the Board may arrange to have the Town Attorney present if so desired. Failure to provide such notice shall be sufficient cause to continue the meeting to a later date if the Board so chooses.

§ 110-45. Recording approved plans.

Upon stamping and signing a final plan for a full review approval, the Town shall record a notice of decision referencing the plan at the Carroll County Registry of Deeds.

§ 110-46. Bonding.

The applicant shall be required to provide bonding for site improvements for any minor review or major review application in accordance with the following:

- A. Bonding shall be provided by the applicant payable to the Town in order to ensure that the applicant will complete all site work in accordance with the plans. Bonding, if called by the Town, shall be used to stabilize the site, ensure site safety and to minimize any adverse impacts on the neighborhood and Town. In the event that bonding is called by the Town, the Planning Board shall immediately schedule and hold a public hearing to consider revocation of the site plan approval per the process of RSA 676:4-a. The Board shall also request that the building permit be suspended until the matter is resolved. No further work may proceed on the site without further Planning Board approval, nor shall any CO be issued without prior consent of the Planning Board.
- B. The amount shall be 50% of the cost of all site work. Appropriate bonding to cover the full costs of all landscaping shall also be posted. The form and execution of such surety shall be approved by the Board of Selectmen. The surety shall run for a term determined by the Planning Board, but in no event shall it exceed three years nor be less than one year to ensure survival through a complete growing season.

§ 110-47. Approval required prior to site work.

Prior to land clearing, site preparation, construction or any other such activity may begin on a site, and before any permit for such activities may be issued, a final approval of the site plan is required. All activity on the site shall be in accordance with the approval.

§ 110-48. Certificates of occupancy.

Every approval pursuant to this chapter is granted subject to the issuance of a certificate of occupancy (CO) upon completion of construction and site work. Use of the site prior to the issuance of the CO shall be prohibited. The CO shall be issued by the Board of Selectmen or its designee. Prior to issuance of a CO for any project requiring approval under this chapter, the Planning Board or its designee must field check the completed site and sign off on the CO prior to issuance. A request for inspection shall be made to the Town 48 hours prior to any

anticipated backfilling of drainage structures. A request for final inspection shall be made to the Town and to the Board at least 14 days prior to the anticipated final completion of construction. These inspections are required to obtain a CO.

§ 110-49. As-built plans.

The Board does not require as-built site plans, nor will it stamp and sign such plans. The only as-built plans which the Board will stamp and sign is the plan showing the location of structures on condominium property. Such plans shall:

- A. Be certified to be correct and stamped by a NH licensed land surveyor;
- B. Be accompanied by certificates of occupancy, if applicable;
- C. Clearly identify in the title block exactly what the as-built plan is approving; and
- D. Have the following plat note printed on each sheet: "These as-built plans are pursuant to, and without modification of, the original Planning Board approval."

§ 110-50. Enforcement.

The Board authorizes the Board of Selectmen and its designees as the enforcement agents for this chapter. The Board also reserves the right to enforce this chapter itself if necessary.

§ 110-51. Reconsideration of approval.

Any minor review approval or conditional approval, and any full review conditional approval, granted under this chapter may be reconsidered and/or rescinded by a majority vote of the Board. To do so, the Board must hold a noticed public hearing at its own expense, and then must determine that material information on which the original approval was based was defective, incomplete or misrepresented. Any full review with an approved plan recorded at the Carroll County Registry of Deeds may be revoked in accordance with RSA 676:4-a. A rescinded approval shall be deemed a denial of the original application. A new notice of decision shall be issued, which states the reason for the new decision.

§ 110-52. Compliance with other codes.

The site plan review regulations in no way relieve an applicant from compliance with Chapter 190, Zoning, or Chapter 130, Subdivision of Land, of the Conway Code or any other code adopted by the Town or any other governmental unit. In the event that the requirements of this chapter are in conflict with other codes, the more stringent shall apply.

§ 110-53. Severability.

If any clause, portion or section of this chapter is found invalid by a court of competent jurisdiction, this finding shall not invalidate the remainder of this chapter.

Chapter 115
SOLID WASTE

ARTICLE I
Control of Operations

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ARTICLE II
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- § 115-21. **Origin of materials.**
- § 115-22. **Unlawful dumping.**
- § 115-23. **Liability waiver.**

[HISTORY: Adopted by the Board of Selectmen of the Town of Conway 1-9-2007. Amendments noted where applicable.]

GENERAL REFERENCES

Amusements — See Ch. 16.
building construction — See Ch. 23.

Hazardous wastes — See Ch. 67.

ARTICLE I
Control of Operations

§ 115-1. Legislative authority; intent. ¹

This chapter is adopted pursuant to RSA 31:39 and RSA 149-M:17 for the purpose of better regulating and promoting the general health and welfare of the public and toward more prudent operation of the Town's facilities for waste disposal as well as better ordering the public's prudential affairs.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 115-2. Authority to adopt rules and regulations.

- A. The Selectmen are authorized to establish and/or amend reasonable rules and regulations from time to time controlling the use, operation and public's convenience regarding waste disposal at the solid waste facilities now or hereafter operated by the Town for its citizens and the citizens of towns contracting with the Town of Conway. Such rules and regulations may encompass hours of operation, segregation of waste products to be dumped, fees for dumping waste, fines for violation of the rules and regulations of the solid waste facilities and all other reasonable rules and regulations necessary and/or appropriate toward the prudential management of said solid waste facilities.
- B. The Selectmen shall request the advice of the Lower Mount Washington Valley Solid Waste District regarding all changes to the rules and regulations; however, the Selectmen shall not be bound by said advice.

§ 115-3. Manner of adoption of rules and regulations; amendments.

- A. The Selectmen may adopt and/or amend such rules and regulations from time to time, provided that at least two public hearings shall be held, with each hearing having published notices therefor at least two weeks prior to such hearing; after the second hearing, the Selectmen shall vote to adopt and/or amend such rules and regulations and record the rules and regulations so adopted and/or amended with the Town Clerk of Conway, and thereafter the same shall be valid and enforceable. In the notice of the second hearing, the entire proposed rules and regulations or amendments thereto shall be published, and only nonsubstantive changes may be made after the second hearing.
- B. Prior to the second public hearing, the Selectmen shall request the advice of the Lower Mount Washington Valley Solid Waste District regarding all changes to the rules and regulations; however, the Selectmen shall not be bound by said advice.

§ 115-4. Violations and penalties.

- A. Any violation of any provision of this chapter or the rules and regulations promulgated hereunder shall be punished by a fine in an amount set from time to time by the Board of Selectmen.²
 - (1) For residential accounts or users, a third offense may result in the revocation of a transfer station permit. The permit may be reissued upon full payment of all outstanding fines.
 - (2) For commercial accounts or users, a third offense may result in revocation of a facility permit for 30 days. The permit will be reissued after the thirty-day period, provided all fines are paid.
- B. Once either commercial or residential users are fined a third time, all future fines shall be in accordance with Subsection A(1) and A(2) above.

² Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- C. Enforcement actions may be appealed to the Board of Selectmen.
- D. Should the Town find it necessary to take court action regarding any violation of this chapter, the cost of court action shall be paid to the Town upon conviction. The Town may also enforce this chapter and the rules and regulations promulgated hereunder by injunction, restraining order or other appropriate action where such remedy is appropriate.

§ 115-5. Amendments by Town Meeting and Selectmen.

- A. This article or any rules and regulations promulgated by the Selectmen may be amended by majority vote of the Town at any Town Meeting, the warrant for which gives notice of the proposed change. This shall not be deemed to limit the authority of the Selectmen to adopt and/or amend rules and regulations consistent with the powers and procedure hereunder established or as may be amended at any such Town Meeting.
- B. The Selectmen shall request the advice of the Lower Mount Washington Valley Solid Waste District regarding all changes to the rules and regulations; however, neither the Selectmen nor the Town Meeting shall be bound by said advice.

§ 115-6. Applicability; when effective.

This article shall apply to all users of the solid waste facilities now or hereafter operated by the Town and shall take effect when adopted either at any duly warned Town Meeting or upon the affirmative vote of the Selectmen.

**ARTICLE II
Use Regulations**

§ 115-7. Legislative intent.

The recycling of solid waste products is not only deemed energy-efficient, but is also necessary as a means of preserving landfill space, easing the tax burden of the member towns and is an environmentally conscientious action. These regulations on the use and disposal of solid waste are a means of accomplishing these goals.

§ 115-8. Definitions.

- A. As used in this article, the following terms shall have the meanings indicated:

COMMERCIAL HAULER — Any user, either individual or company, which hauls materials to the solid waste facility for either a fee or for business use.

DESIGNATED AREAS — Sites or containers, either marked by signs or specified by the solid waste facility attendant, for the deposit of specified materials.

MANDATORY RECYCLING or MANDATORY SEPARATION — Mandatory recycling or mandatory separation requires users to deposit specified materials in designated areas. Violators shall be subject to penalties provided under § 115-4 herein.

NONRECYCLABLE CONSTRUCTION/DEMOLITION DEBRIS — Building materials, including insulation, carpet, vinyl/tile flooring, vinyl siding and rubber roofing.

RECYCLABLE CONSTRUCTION/DEMOLITION DEBRIS — Building materials, including wood, asphalt roofing, painted lumber, masonry, plumbing fixtures, gypsum.

RECYCLING — The separation of materials by the facility user in a manner that will allow these materials to be processed for sale in a reasonably feasible commercial manner.

RESIDENTIALLY GENERATED SOLID WASTE — The solid waste generated from dwelling units which provide living quarters for persons, excluding hotels, motels and similar commercial-type operations, and any construction/demolition debris.

SEPARATION — The sorting of specified materials in a prescribed manner by category for disposal in designated areas at the solid waste facility site.

SOLID WASTE FACILITY ATTENDANTS — The Selectmen of the Town of Conway, or the Town employees or agents authorized by said Selectmen to act in their stead at the solid waste facility site.

USER FEE or TIPPING FEE — A fee charged for disposal of waste at the solid waste facility to be paid to the Town as per the payment policies of the Town of Conway.

- B. In these rules and regulations, the words and phrases shall, as appropriate, be deemed to have the same meanings as set forth in RSA 149-M:4, unless otherwise specifically defined hereunder.

§ 115-9. Mandatory recycling and separation.

- A. Corrugated cardboard shall be separated, kept clean and dry, cut to a size as required by the Town and flattened for deposit at the designated area.
- (1) Staples, nylon tape, string or other foreign materials shall be removed, insofar as is reasonably possible.
 - (2) Waxed or treated cardboard and all paperboard shall not be separated for deposit under this section.
 - (3) Commercial haulers shall provide their customers with separate containers marked exclusively for use with cardboard and deliver corrugated cardboard in the manner prescribed above and on days and at times designated by the Town of Conway.
- B. Aluminum cans shall be separated and rinsed for deposit at the designated area. Crushing will provide additional space for the user and is encouraged. Such items as aluminum foil and plates are not accepted at the current time.

- C. Glass shall be deposited in a designated area. Material shall be rinsed and caps removed. Such items as windshields, painted glass, light bulbs, etc. are not accepted at the current time.
- D. Newsprint and magazines shall be kept clean, dry and free of junk mail for deposit in the designated areas.
- E. Burnable material, such as tree limbs under five inches in diameter, and brush, shall be separated and deposited in the area designated for controlled burning. Scrap wood, painted wood, pressure-treated wood, stained wood, etc. shall not be accepted in this area and shall be classified as demolition material.
- F. Construction/Demolition debris shall be separated for deposit in designated, approved areas.
- G. Tires and tubes shall be separated and deposited in a designed area. Tires greater than 24 inches will not be accepted.
- H. Metal (appliances, pipe, wire, springs, auto parts, miscellaneous scrap metal) shall be separated and deposited in a designated area. All hazardous capacitors shall be removed from appliances prior to disposal at the site.
- I. Propane tanks shall be separated and deposited in a designated area.
- J. Car batteries shall be separated and deposited in a designated area.
- K. Motor oil shall be poured into the container provided by the Town.
- L. High-density polyethylene plastic (HDPE) and polyethylene terephthalate plastic (PET) shall be rinsed and the caps removed and shall be deposited in the designated area.
- M. E-waste, to include: television-plastic; television-wooden/console; computer monitors, laptops; VCR/DVD players; audio equipment (CD, etc), radios, etc.; CPU/hard drives; microwaves; printers; cell phones; photocopiers (desktop); scanners (desktop); cameras, shall be deposited in the designated area.³
- N. Other materials may be designated for voluntary recycling in the future by the Town of Conway.
- O. Mixed paper shall consist of all paper and paperboard, excluding newsprint and magazines, and shall be deposited in the designated area.
- P. Leaves and grass clippings shall be placed on the compost pile.

§ 115-10. Hazardous waste disposal.

- A. Inasmuch as the Conway solid waste facility does not meet the criteria for the disposal of hazardous waste as found in RSA Ch. 147-A, no hazardous waste as listed under RSA

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Ch. 147-A shall be taken into the solid waste facility except as allowed by Chapter 67, Hazardous Wastes, of the Conway Code.⁴

- B. The exception to this section is the household hazardous waste day, which is a yearly event at which households may dispose of hazardous waste.

§ 115-11. Additional regulations regarding hazardous waste.

The disposal of hazardous materials shall be subject to Chapter 67, Hazardous Waste, of the Conway Code.

§ 115-12. Tipping fees; monitoring hauler activity.

- A. Propane tanks shall be tipped at \$5 each.
- B. Mattresses, box springs and upholstered furniture shall be tipped at \$5 each.
- C. Tires. The disposal of all tires will be tipped at current market prices.
- D. Solid waste. The disposal of all commercially generated solid waste will be tipped at \$85 per ton of waste or any fraction thereof. Disposal of residentially generated and commercially hauled solid waste shall be tipped at \$42.50 per ton, to go into effect on September 10, 2002.
- E. The disposal of construction/demolition debris will be permitted when accompanied by a valid building permit. Recyclable construction/demolition debris will be tipped at \$0.04 per pound (\$80 per ton). The minimum charge shall be \$3. This fee may be adjusted to \$35 per ton over the Town's cost for disposal at a recycling facility. Nonrecyclable construction/demolition debris shall be tipped at \$85/ton. The minimum charge will be \$3.
- F. Monitoring hauler activity.
- (1) All commercial haulers of solid waste seeking to access the solid waste facility with solid waste must obtain a written permit from the Town, to be issued by the office of the Town Manager.
 - (2) A commercial hauler of solid waste to the Town's solid waste facility shall present to the solid waste attendant a manifest containing the following information: the name, address and telephone number of the accounts whose waste is being hauled and the driver's signature.
- G. Payment of fees. The Town will send monthly statements for the preceding month's disposal. Payment shall be due within 30 days from the date of the statement. This shall not preclude other collection procedures, including prepayment or fines (§ 115-4). Accounts which are more than 30 days' past due will be in violation, resulting in

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

suspension of the solid waste permit. A permit which is revoked or suspended may, on reissue or reinstatement, have special conditions on manner and time of payment.

- H. Appliances containing refrigerants shall be tipped at \$5 each.
- I. Computer monitors shall be tipped at \$10 each; televisions at \$15 each; and television consoles at \$20 each.

§ 115-13. Hours of operation.

The solid waste facilities of the Town shall be kept open for public use on days and times authorized by the Conway Selectmen from time to time and posted at the entrance of the solid waste facility. Changes of days and/or hours solid waste facilities are to be open shall likewise be posted at the facility and advertised in the media.

§ 115-14. Deposit of wastes at facility.

All users of Conway's solid waste facilities shall deposit solid waste at sites designated by posting at Conway's solid waste facilities or as reasonably directed by the solid waste attendants present and operating the solid waste facility.

§ 115-15. Vehicle sticker permits.

- A. All user vehicles shall display permits. Such sticker permits shall be issued only to residents and taxpayers of the Town of Conway and those towns contracting with the Town of Conway for the use of Conway's solid waste facility. Absolutely no vehicle which does not have a permit shall be allowed to enter Conway's solid waste facility.
- B. Temporary permits may be obtained through the office of the Public Works Director if shown demonstrated need.

§ 115-16. Vehicles to be covered.

All vehicles entering Conway's solid waste facility shall be covered in a manner to prevent solid waste from being blown therefrom at all times prior to dumping. Similarly, all vehicles with a destination of the Conway solid waste facility shall be covered in a like manner.

§ 115-17. Dump store.

The purpose for the dump store is to dispose of materials which are usable to the general public, thus avoiding landfilling these items. Tipping fees shall not be avoided by placing materials in the dump store. Attendants shall have the authority to determine if items are unacceptable to be left at the dump store. Materials may be picked up on a first-come-first-served basis. No materials shall be saved or stored for an individual.

§ 115-18. Scavenging of recycled materials.

It shall be unlawful to scavenge any material which has been set out to be recycled, whether it is located in designated areas at the solid waste facility or set out for pickup by a commercial hauler.

§ 115-19. Unaccepted materials; special authorization.

- A. The following items shall not be accepted at the Conway solid waste facility: stumps and large tree limbs (greater than five-inch diameter), hot ashes, sludge, hazardous waste, wire/cable in lengths greater than five feet, reinforced concrete and other items which may be determined in the future. Should other items be deemed unacceptable, they will be posted at the solid waste facility as such.
- B. Some of the items listed in this section may be accepted under special conditions, such as hazardous waste being accepted on a hazardous waste day. Also, as the Town's ability to deal with these items in a lawful manner is addressed, the items may be accepted. Inquiries as to acceptable and unacceptable materials should be addressed to the office of the Public Works Director.

§ 115-20. Supervision of facilities; appeals.

- A. The Public Works Director is the solid waste facility operator. As such, all functions regarding the operation and maintenance of the facility are the responsibility of the Public Works Director, who may delegate portions of this responsibility as he sees fit.
- B. Any person who feels aggrieved by a decision of an employee at the solid waste facility regarding the enforcement and/or interpretation of this article may appeal to the Public Works Director. Similarly, subsequent appeals may be filed with the Town Manager and finally with the Selectmen should a person continue to feel aggrieved.

§ 115-21. Origin of materials.

- A. Solid waste shall be accepted from valid permit holders delivering solid waste generated in Conway, Albany and Eaton.
- B. Recyclable materials shall be accepted from valid permit holders delivering recyclable materials generated in Conway, Albany and Eaton.

§ 115-22. Unlawful dumping.

It shall be unlawful to dump any waste in an unapproved location. Dumping along the side of the road, in the woods, in a business' dumpster, etc. is illegal and punishable under this article.

§ 115-23. Liability waiver.

All persons and vehicles entering the premises of the Conway solid waste facility do so at their own risk and inherently hold the Town of Conway harmless from injury, disease or damage, as it is apparent that there is a risk of any and all of these at any facility such as said facility.

Chapter 120

SPECIAL EVENTS

ARTICLE I

Permit Application Procedures and Requirements

- § 120-1. Permit required; licensing authority.
- § 120-2. Definitions.
- § 120-3. Purpose of permit.
- § 120-4. Permit application process.
- § 120-5. Permit requirements and conditions.
- § 120-6. Revocation of permit.

§ 120-7. Fees and deposits.

ARTICLE II

Advertising Permits

- § 120-8. Purpose.
- § 120-9. Applicability.
- § 120-10. Permit required; appeals.
- § 120-11. Regulations.
- § 120-12. Fees and deposits; responsibility for removal.

[HISTORY: Adopted by the Board of Selectmen of the Town of Conway. Amendments noted where applicable.]

GENERAL REFERENCES

- | | |
|--|---|
| Alcoholic beverages — See Ch. 12. | Peace and good order — See Ch. 95. |
| Amusements — See Ch. 16. | Seasonal and promotional decorations — See Ch. 125, Art. V. |
| Fireworks — See Ch. 53. | Vending carts — See Ch. 170. |
| Hawkers, peddlers and solicitors — See Ch. 62. | |
| Parks and Town property — See Ch. 90. | |
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ARTICLE I

Permit Application Procedures and Requirements

§ 120-1. Permit required; licensing authority.

As provided for in RSA 286:1 and 286:2, a permit shall be required for all special events in the Town of Conway, with the Board of Selectmen as the licensing authority.

§ 120-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

NONPROFIT AND FOR-PROFIT STATUS — For the purpose of this permit, nonprofit events shall be defined as those events sponsored by a legally established nonprofit organization or by a group of individuals that is sponsoring the event for community benefit and without profit-making intent. All proceeds shall serve nonprofit purposes and there shall be no profit for event participants. Private for-profit organizations or individuals utilizing nonprofit or public sponsors and facilities must be licensing applicant and are subject to

"for-profit" fees. (Note: In general, for-profit events are not permitted at Town parks or facilities. In some cases, however, events such as concerts or theatrical events may be allowed by the Board of Selectmen.)

SPECIAL EVENT — An event, whether indoors or outdoors, that is held on public property or streets, nonprofit organization property, or nonresidential private property that can reasonably be expected to cause a public gathering that is not part of the normal course of business at the location. To qualify as a special event, the event must not be permissible or permissible by any other committee, board or officer of the Town of Conway under Town ordinances, policies or bylaws.

§ 120-3. Purpose of permit.

The purpose of permitting for special events is to protect the health, safety and public welfare of the general public. The special events permit helps ensure that all parties, event participants, attendees, neighbors, residents and passersby will not be inconvenienced and that their health, safety and welfare will have been fully considered and protected.

§ 120-4. Permit application process.

- A. The permit shall be for a specific special event at a designated time and place. Each permit request requires the completion of an application. Applications are available at the Conway Parks and Recreation Department (447-5680) and on the Town webpage at www.conwaynh.org.
- B. All applications shall be submitted to the Conway Parks and Recreation Department for review by the Board of Selectmen. Applications must be received at least 90 days prior to the date of the proposed special event. The Board of Selectmen may, however, accept such applications if received more than 30 days prior to the date of event, if it determines that sufficient time is available to thoroughly review the application. Upon receiving an application, the Board of Selectmen may request recommendations and advice from others pertaining to the issuance of such permits. The actual permit for the special event will not be issued or considered valid until all preconditions and/or exceptions imposed for the special event have been satisfactorily completed or arranged.
- C. If any new exceptions or conditions are presented or otherwise sought by the applicant within 14 days of the scheduled date of the special event, such presentment may be considered a basis for invalidation of the permit application.
- D. The applicant is responsible for obtaining all approvals and signatures required for this permit.

§ 120-5. Permit requirements and conditions.

- A. Insurance. A certificate of general liability insurance in the amount of \$1,000,000 per occurrence is required for all events. The certificate shall explicitly name the Town of Conway as an additional insured and must state the name and date of the event. Depending on the nature of the event, other insurance may be required.

- B. Permission from property owner.
- (1) Town properties may be used only by nonprofit entities or for events sponsored by nonprofit organizations. For such events, the applicant must submit an application for use of public streets, parks and facilities.
 - (2) For special events held on private commercial property, proof of permission from the landowner is required.
- C. Site maintenance.
- (1) It is the responsibility of the permittee to maintain the site in an orderly and clean manner during the event. It is the further responsibility of the permittee to clean up the entire area immediately following the event.
 - (2) The permittee is responsible and liable for any damages that occur to Town buildings or the grounds from the permitted activity. Any damages noticed prior to use should be reported to the Conway Parks and Recreation Department.
- D. Event advertising. Advertising for special events must comply with all applicable Town regulations and ordinances. In addition, specific regulations apply to some special events and nonprofit capital project fund-raising event advertising.
- E. Removal of promotional or directional signs. It is the responsibility of the permittee to remove all informational and/or directional signs that are permitted for this event on public rights-of-way within 24 hours following completion of the event.
- F. Police special duty. Special-duty police officers may be required for some events. The applicant must submit a special events police duty form to the Conway Police Department for review (603-356-5785). If special-duty officers are required, fees will be assessed to the permittee. (See police fees in § 110-7 below.)
- G. Requirements for parades. If the event is a parade on a state highway, an approved state parade permit must accompany the application. The application form is available at the Conway Parks and Recreation Department.
- H. Requirements for fireworks. A state permit is required for the display of fireworks. The application form is available at the Conway Parks and Recreation Department.
- I. Events in Conway Village or North Conway Village.
- (1) At their request, special events that will be held within the North Conway Water Precinct or the Conway Village Fire District require separate written approval of the fire departments within these jurisdictions. Approvals are arranged through the following offices:
 - (a) Conway Village Fire District: 447-2681.
 - (b) North Conway Fire Department: 356-5327.

- (2) The approval form must be submitted with the Town application. Town of Conway event applications will not be processed until all information, including these approvals, has been received.
- J. Alcohol prohibited. The consumption of alcoholic beverages in any form is prohibited on Town property.
- K. Additional requirements.
- (1) After an initial review of the application and depending on the size, nature and scope of the event, the Board of Selectmen may determine that additional information is necessary for the application to be appropriately considered. Such additional information may include but is not limited to the following:
- (a) A security plan.
 - (b) A fire plan.
 - (c) A traffic control plan.
 - (d) An ambulance and medical services plan.
 - (e) A sanitary facility plan.
 - (f) A ticket distribution plan.
 - (g) Details of financial arrangements.
 - (h) A crowd control plan.
- (2) The applicant will be advised of the requested information; and the response to such request must be in writing, addressed to the Board of Selectmen, reference the application number, and shall be considered as part of the application.

§ 120-6. Revocation of permit.

- A. The permit may be revoked at any time if the applicant does not follow the provisions of the permit and if the exceptions and conditions in the permit have not been completed as specified. Revocation of a permit will result in forfeiture of all deposits and fees.
- B. Further, any applicant that breaches the terms and conditions of its permit or any of the exceptions and conditions imposed thereunder shall be subject to a penalty provided under RSA 286:5, as amended.

§ 120-7. Fees and deposits.¹

- A. Permit fees. Applicants shall be charged permit fees in an amount set from time to time by the Board of Selectmen.

¹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- B. Inspection fees. Inspections or site visits to notice permittee of a violation of the permit may be required by the Town zoning, building, or health officials. A fee as set from time to time by the Board of Selectmen shall be charged. This applies to both nonprofit and for-profit special events. These fees are not included in the special events permit fee and the Town reserves the right to deduct inspection fees from a permittee's security deposit.
- C. Police fees. If, in the opinion of the Police Chief, special-duty police officers are required for the purpose of public safety at the special event, a fee will be charged in an amount set from time to time by the Board of Selectmen.
- D. Electrical fees. Events requiring electrical service are required to cover the actual or estimated cost of such service.
- E. Trash removal fees. A fee will be charged to remove trash after a special event. The trash removal fee can be avoided if the applicant removes the trash itself.
- F. Field setup fees. Events at Town facilities or fields that require Parks and Recreation Department staff to be present or to assist in setup of a Town park will be charged a fee as set from time to time by the Board of Selectmen.
- G. Sanitation fees. Any special event held at a Town park must have portable toilets. Charges for the units will be set from time to time by the Board of Selectmen. The Parks and Recreation Department will determine the number of units needed based on expected attendance at the event as listed on the special event permit.
- H. Fee waivers. As a general policy, fees are not waived.
- I. Security/Damage deposit. A security deposit in an amount determined by the Board of Selectmen will be required of the applicant to ensure compliance with the terms and conditions of this permit, as generally allowed per RSA 286:4-a.

ARTICLE II Advertising Permits

§ 120-8. Purpose.

The purpose of this policy is to protect property values and the area's natural resources that provide the basis for the Town's tourist economy. This policy also encourages uses that are visually and aesthetically consistent with rural living and a tourism economy and serves to promote the health, safety and general welfare of the community.

§ 120-9. Applicability.

Only those special events that are approved by the Board of Selectmen and that are expected to attract more than 1,000 people to the Town of Conway are eligible for a special event advertising permit. In certain circumstances, special events in neighboring towns may also be eligible. In the latter case, it shall be the responsibility of the applicant to provide supporting documentation that the special event will provide a substantial benefit to the Town of Conway and the Mount Washington Valley.

§ 120-10. Permit required; appeals.

A special event advertising permit approved by the Code Compliance Officer and Board of Selectmen is required. A permit application must be submitted no later than 30 calendar days prior to the commencement of the advertising. A denial of a permit may be appealed to the Board of Selectmen no later than 15 calendar days prior to the commencement of the fund-raising effort.

§ 120-11. Regulations.

- A. Two forms of advertising are permitted.
- B. Special event advertising may only be affixed to the following utility poles: North Conway Village - New Hampshire Electric Cooperative utility pole numbers 17-9, 13, 14, 16, 18, 20, 22, 80-87, 89, 90, 92 and 93, located between Grove Street and Pine Street in North Conway Village.
- C. The applicant must include a letter from the appropriate utility company(ies) granting permission to affix banners to the utility poles.
- D. Advertising banners shall be designed to complement the rural and resort character of the area (color, shape, graphic display, banner material, etc.).
- E. Banners shall not create any nuisance to vehicles or pedestrians.
- F. The only lettering permitted on such banners shall be the name and dates of the event. Corporate or business logos (whether event sponsors or not) shall not be permitted on the banners.
- G. The special event advertising permit shall be valid for a period not to exceed 15 days. Advertising may be displayed up to eight days prior to the event. Advertising shall be removed within 48 hours of the end of the event.
- H. Pertinent documentation, including photographs or drawings of the proposed banners, is to be included with the application.

§ 120-12. Fees and deposits; responsibility for removal. ²

Fees and deposits shall be set from time to time by the Board of Selectmen. The required deposit is refundable, provided the advertising is removed by the applicant within 48 hours after the event. It shall be the applicant's responsibility to erect and remove all advertising.

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 125

STREETS AND SIDEWALKS

**ARTICLE I
Scenic Destination Public Way
Maintenance**

- § 125-1. Purpose.
- § 125-2. Review.
- § 125-3. Scenic destination public ways defined.
- § 125-4. Winter operations.
- § 125-5. Drainage.
- § 125-6. Trees.
- § 125-7. Grading.
- § 125-8. Emergencies.
- § 125-9. Log of information.

**ARTICLE II
Mailbox Replacement**

- § 125-10. Purpose.
- § 125-11. Limits on Town responsibility.
- § 125-12. Notification requirements.

- § 125-13. Limits on payments.
- § 125-14. Replacement materials.
- § 125-15. Payment in lieu of replacement.

**ARTICLE III
Snow and Ice**

- § 125-16. Deposit on streets prohibited.
- § 125-17. Violations and penalties.

**ARTICLE IV
Street Sign Replacement**

- § 125-18. Private streets.

**ARTICLE V
Seasonal and Promotional Decorations**

- § 125-19. Purpose.
- § 125-20. Permit required; appeals.
- § 125-21. Regulations.

[HISTORY: Adopted by the Town of Conway as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Amusements — See Ch. 16.
Excavations — See Ch. 47.

Parks and Town property — See Ch. 90.
Special events — See Ch. 120.

**ARTICLE I
Scenic Destination Public Way Maintenance
[Adopted by the Board of Selectmen]**

§ 125-1. Purpose.

This policy is adopted by the Board of Selectmen to establish a balance between preserving the scenic rural characteristics of unpaved "scenic destination public ways," effective and necessary maintenance, snow removal, drainage, and public safety, while at the same time

being sensitive to the taxpayer, cost of operations and municipal liability, and to accomplish these policies without any unnecessary widening of the roads.

§ 125-2. Review.

This policy shall be reviewed from time to time, amended as may be appropriate, and reaffirmed by vote of the Board at that time.

§ 125-3. Scenic destination public ways defined.

This policy shall apply to the following roads:

- A. Gulf Road.
- B. Baird Hill Road.
- C. Potter Road.
- D. Davis Hill Road to Cemetery.
- E. Leavitt Road.
- F. Greeley Road.
- G. Birch Hill Road.
- H. Crown Hill Road from Gulf to point of abandonment at west side of Parcel 3-27.

§ 125-4. Winter operations.

- A. The subject roadways shall be plowed with equipment that will not necessitate further widening in order to operate effectively and efficiently.
- B. Stored snow from plowing may be moved or removed from the right-of-way at such time as the traveled way has been reduced by three or more feet from ditch line to ditch line.
- C. Sanding shall be done at the discretion of Highway Department personnel.
- D. Signs shall be posted from November 15 to March 15 advising travelers of the narrow roadway and to drive with caution.
- E. Prior to fall/winter frost freeze at least six inches being established, and in spring when thaw has entered the roadway, plowing shall only occur with storms in excess of four inches.

§ 125-5. Drainage.

- A. No further water run-off drainage areas will be constructed without the written consent of the property owner onto whose property the water will flow. Runoffs, when constructed, shall be done only to the degree necessary to rectify the problem area.

- B. Storm drains, culverts and ditches will be cleaned as needed, but no less than once a year.

§ 125-6. Trees.

Dead trees, regardless of size, may be cut and fallen trees removed from the right-of-way. Tree maintenance shall be in accordance with the scenic road statutes. Only growth considered to intrude into the traveled way, or that impedes sufficient road maintenance operations, is to be removed. Trees being removed with a ten-inch to fifteen-inch circumference at four feet from the ground shall be yellow-flagged for one week prior to removal to allow abutters to comment to the Director of Public Works concerning their removal. Smaller trees/brush may be removed at the discretion of the Highway Department.

§ 125-7. Grading.

Traveled ways shall be graded no more than twice a year as conditions permit in the spring and fall, and raked as needed in the summer. In all cases, only those sections, at the discretion of the Highway Department, requiring maintenance shall be graded/raked. Rocks shall be removed from the roadway as necessary to facilitate grading.

§ 125-8. Emergencies.

The Public Works Director may act in any manner deemed appropriate in emergency situations in order to make the public ways accessible, safe and able to be travelled upon.

§ 125-9. Log of information.

A log will be maintained reflecting comments, complaints, compliments, maintenance activity, equipment utilization, and operational problems/incidents that occur on the subject public ways. The logs will be used as part of the Board's annual policy review.

ARTICLE II

Mailbox Replacement

[Adopted by the Board of Selectmen]

§ 125-10. Purpose.

This policy establishes the procedures for replacing mailboxes damaged by snow plowing or other activities of the Town Public Works Department.

§ 125-11. Limits on Town responsibility.

It is not the Town's responsibility to replace mailboxes that are located within Town rights-of-way.

§ 125-12. Notification requirements.

If a mailbox is located outside the Town's right-of-way and it is damaged, either the Public Works Director or Town Manager must be notified of the damage within 72 hours. This will allow for timely verification of the incident and is required to qualify for replacement.

§ 125-13. Limits on payments.

No funds will be disbursed directly to the owner, except in accordance with § 125-15 below. Town personnel will normally provide labor and materials.

§ 125-14. Replacement materials.

Regardless of construction type or the value of the damaged mailbox, it is the Town's policy to replace it with a standard mailbox available at local hardware stores and mounted on a four-by-four post.

§ 125-15. Payment in lieu of replacement.

If the property owner does not desire a replacement as described in § 125-14 above, the Town will pay up to \$25 toward the replacement upon receipt of an itemized bill for materials.

ARTICLE III

Snow and Ice

[Adopted by the Board of Selectmen 12-1939]

§ 125-16. Deposit on streets prohibited.

No person or persons shall deposit or cause to be deposited snow or ice upon the streets or public highways within the Town of Conway.

§ 125-17. Violations and penalties.¹

Any person violating this article shall be fined a sum as set from time to time by the Board of Selectmen.

ARTICLE IV

Street Sign Replacement

[Adopted by the Board of Selectmen]

§ 125-18. Private streets.

As a matter of policy, the Town of Conway places street signs on all public roads for the purpose of maintaining the general order of the community and for the purpose of providing

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

direction for public safety response. Within the Town of Conway there also exist private streets requiring street signs for these same purposes. Because the owners of homes and property along these private streets are also property tax payers, it shall be Town policy to pay for the replacement of existing signs and for the erection of new signs on private streets and roads to the extent allowed by annual budgetary constraints.

ARTICLE V

Seasonal and Promotional Decorations

[Adopted by the Board of Selectmen as last amended 7-28-2009]

§ 125-19. Purpose.

The purpose of this policy is to establish guidelines and regulations for the placement of seasonal decorations, banners or other display items on utility poles within the Town of Conway. These regulations are intended to protect property values and the area's natural resources that provide the basis for the Town's tourist economy. This policy encourages uses that are visually and aesthetically consistent with rural living and a tourism economy and serves to promote the health, safety and general welfare of the community. This policy is also intended to control and schedule the use of utility poles and, further, to assure that no business names and business logos will be displayed as part of seasonal decorations.

§ 125-20. Permit required; appeals.

A seasonal decoration permit approved by the Code Compliance Officer and Board of Selectmen is required. A permit application must be submitted no later than 60 calendar days prior to the placement of the decorations. A denial of a permit may be appealed to the Board of Selectmen no later than 30 calendar days prior to the placement of the decorations.

§ 125-21. Regulations.

- A. Decorations must comply with all applicable Town ordinances.
- B. Only municipal or local nonprofit organizations are eligible to submit an application.
- C. This policy does not apply to advertising for events subject to permitting under the Town of Conway special events permit or temporary event permit.²
- D. The winter season for decorations is established to be from November 15 until March 15. Decorations associated with other seasons or with particular marketing campaigns may be displayed for defined time periods with the approval of the Town.
- E. For applications for placement of decorations in North Conway Village, any organization placing seasonal decorations on utility poles shall be required to have an approval letter from the appropriate utility company.
- F. For applications for placement in Conway Village:

2. Editor's Note: See Ch. 120, Special Events.

- (1) Approval to place decorations is contingent upon the Town receiving approval of a municipal pole license agreement from Eversource Energy.
 - (2) The applicant will be required to pay any costs associated with securing this permit or with compliance with this permit.
 - (3) As a condition of this permit, the applicant will be required to comply with the guidelines set forth in the municipal pole licensing agreement between the Town of Conway and Eversource Energy.
- G. Decorations shall not present a danger or create any nuisance to either vehicles or pedestrians.
- H. Decorations shall be kept in good repair and working order. Worn, tattered or dirty banners are not acceptable. The Town reserves the right to remove any banners at any time without consulting the applicant.
- I. Advertising of any kind, including corporate or business logos, shall not be permitted on the decorations.
- J. Pertinent documentation, including photographs or drawings of the proposed banners, is to be included with the application.
- K. Seasonal decorations may be affixed only to the following utility poles:
- (1) North Conway Village. New Hampshire Electric Cooperative utility pole numbers 17-9, 13, 14, 16, 18, 20, 22, 80-87, 89, 90, 92, and 93, located between Grove Street and Pine Street in North Conway Village.
 - (2) Conway Village. West Main Street to Route 16 (utility pole numbers 333-380, 384, 385, 387, 390, 392, 394, 398, 399, 401, 202E-202).
- L. Failure to comply with this policy will result in the revocation of the seasonal decorations permit. Upon revocation of the permit, the applicant will be required to remove all decorations within two working days of notice. If decorations are not removed, the Town reserves the right to remove any and all decorations that it so chooses.
- M. A certificate of general liability insurance in the amount of \$1,000,000 per occurrence, explicitly naming the Town of Conway as an additional named insured, is required.
- N. Annual permits may be requested that request approval to place decorations for multiple seasons during a given year.
- O. A fee in an amount set from time to time by the Board of Selectmen will be required.³

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 130

SUBDIVISION OF LAND

ARTICLE I General Provisions

- § 130-1. Legislative authority.
- § 130-2. Purpose.
- § 130-3. Definitions.

ARTICLE II Application and Approval Procedure

- § 130-4. Approval required prior to commencement of work.
- § 130-5. Conceptual consultation.
- § 130-6. Design review.
- § 130-7. Information required for completed application.
- § 130-8. Filing and submission of application.
- § 130-9. Action on completed application.
- § 130-10. Public hearing.
- § 130-11. Notices.
- § 130-12. Fees and costs.
- § 130-13. Performance guaranty or bond.
- § 130-14. Filing plat with County Registry of Deeds.

ARTICLE III Concurrent Subdivision and Site Plan Consideration

- § 130-15. Request for concurrent consideration.
- § 130-16. Submission for design review.
- § 130-17. Information required for concurrent application.
- § 130-18. Filing and submission of concurrent application.

§ 130-19. Action on completed concurrent application.

§ 130-20. Public hearing.

§ 130-21. Fees.

ARTICLE IV Submission Requirements

§ 130-22. Information required for conceptual consultation and design review.

§ 130-23. Information required for completed application acceptance.

§ 130-24. Final plat information and materials required.

§ 130-25. Additional information for final plat.

ARTICLE V Design Standards

§ 130-26. Compliance, approval and permits required.

§ 130-27. Character of land to be considered.

§ 130-28. Factors for determining suitability of land.

§ 130-29. Lot and site layout.

§ 130-30. Lands divided by public rights-of-way.

§ 130-31. Access crossing municipal boundaries.

§ 130-32. Reserve strips controlling access to subdivision or other parcels.

§ 130-33. Rights-of-way.

CONWAY CODE

- § 130-34. Subdivision and street names.
- § 130-35. Preservation of existing features; landscaping.
- § 130-36. Additional landscaping.
- § 130-37. Topsoil.
- § 130-38. Scattered or premature development.
- § 130-39. Flood hazard areas.
- § 130-40. Commercial/Industrial and multiple-dwelling units.

ARTICLE VI
Road Construction and Design

- § 130-41. Compliance required.
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ARTICLE X
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- § 130-64. Authority; intent.
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- § 130-66. Street standards.
- § 130-67. Miscellaneous standards.

Table 1, Street Design Guidelines

Table 2, Intersection Design Guidelines

Table 3, Minimum Placement Temperatures

Detail Drawings

Subdivision Application

Abutters List

Application Checklist

[HISTORY: Adopted by the Planning Board of the Town of Conway as last amended 4-28-2011. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Drainage systems — See Ch. 41.
Excavations — See Ch. 47.
Sewers — See Ch. 105.

Site plan review — See Ch. 110.
Zoning — See Ch. 190.

ARTICLE I General Provisions

§ 130-1. Legislative authority.

Pursuant to the authority vested in the Conway Planning Board by the voters of the Town of Conway and in accordance with the provisions of RSA Ch. 236, and Chs. 672 through 677, and subsequent amendments, and the Condominium Act of 1977 (RSA Ch. 356-B), the Planning Board adopts the following regulations governing the subdivision of land in the Town of Conway, New Hampshire.

§ 130-2. Purpose.

The purpose of these regulations shall be to promote the development of an economically sound and stable community by protecting property values, the natural beauty and environment which provides the primary basis for the Town's tourist economy and the unique character of the area and residents; by encouraging subdivision that is in harmony, visually and aesthetically, with rural living and a recreational economy based on our natural resources; by preventing such scattered or premature subdivision of land as would involve danger or injury to health, safety or prosperity by reason of the lack of water supply, drainage, sewage disposal, transportation or other public services or necessitate excessive expenditure of public funds for the supply of such services; to assure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, through proper arrangement and coordination of streets and ways within a subdivision in relation to other planned streets; to promote the amenities of the Town through provisions for parks, playgrounds and other recreation areas, preservation of trees and natural or historic features; and secure equitable handling of all subdivision plans by providing uniform procedures and standards for observance, both of the subdivider and the Planning Board.

§ 130-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

AASHTO — The American Association of State Highway and Transportation Officials.

ABUTTER — Any person whose property is located in New Hampshire or Maine and adjoins or is directly across the street or stream from the land under consideration by the Planning Board. For purposes of receiving testimony only, and not for the purposes of

notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For the purposes of receipt of notification, in the case of an abutting property being under a condominium or other collective form of ownership, the term "abutter" means the officers of the collective or association, as defined in RSA 356-B:3, XXIII.

ACCESS ROAD — A private road or private roads for a subdivision, which provide ingress and egress for owners of lots or dwelling units in a subdivision to a public road. A network of private roads merging or interconnected so as to permit only one entry to a public road shall be construed as one access road.

AGGREGATE BASE — The layer of crushed gravel immediately below the pavement and above the aggregate subbase.

AGGREGATE SUBBASE — The layer of gravel immediately below the aggregate base and above subgrade.

APPROVAL — Recognition by the Planning Board, certified by written endorsement on the plat, that the final plat submission meets the requirements of these regulations and all other applicable ordinances and regulations.

APPROVAL, CONDITIONAL — An expression by the Planning Board that the preliminary layout appears to satisfy all requirements established herein for the preliminary layout submission phase. Conditional approval does not constitute, nor should it be construed as, approval, either implied or granted, of the final plat; nor does it bind the Planning Board to approval of the final plat; nor does it allow for the issuance of any municipal building permit; nor does it allow for any commencement of construction or development.

ARTERIAL ROADS — Major roads carrying traffic from collector and local roads and providing a means of travel from one part of Town to another.

AVERAGE DAILY TRAFFIC — An estimate of the daily volume of traffic utilizing a street. The value shall be determined by the Institute of Transportation Engineers (ITE) and will be no less than eight trips per household in residential areas.

BOARD — The Planning Board of the Town of Conway, New Hampshire.

BOUNDARY (LOT) LINE ADJUSTMENTS — The exchange of abutting land among two or more owners, which does not increase the number of owners or the number of lots and does not create a nonconforming lot or add to the degree of nonconformity of existing lots.

BUILDING — Any combination of any materials, whether portable, movable or fixed, having a roof and enclosed within exterior walls built to form a structure.

BUILD OUT — Is intended to mean that point in time when all approved lots and/or units along a street have been completed and occupied.

COLLECTOR ROADS — Roads which service a number of local roads and/or convey traffic to/from arterial roads.

COMMON FILL — Earth material from either on-site or off-site that is free from frozen material, foreign debris, clay pockets, peat, organic matter, perishable rubbish and other

deleterious materials. Material shall contain no rocks larger than half the compacted thickness of each lift, with a maximum rock of six inches; rocks shall be removed as required.

CROWN — The high point in the road cross-section, typically at the center of the road unless superelevated.

CURB — The granite edging of a sidewalk or paved street.

CURB RADIUS — That radius which pavement must obtain when a street flares into an intersection.

DEAD-END STREET — A minor street with entrance and exit at the same end. Such streets have a cul-de-sac at the end of the street. Dead-end streets are a type of local street.

DRAINAGE — All drainage systems, catch basins, drains, ditches, culverts, pipes, mains and other similar structures.

DRIVEWAY — An area located on a lot, tract or parcel of land and built for access to a garage or off-street parking space, serving not more than two single-family dwellings. Driveways may be allowed for access to parking lots to serve multifamily buildings and such driveways shall meet commercial standards and may be a maximum of 200 feet in length.

DWELLING — A building containing a dwelling unit or dwelling units.

DWELLING UNIT — One or more rooms arranged for the use of one or more individuals living as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities.

EASEMENT — That land area created through authorization by a property owner for the use by another and for a specified purpose of any designated portion of his property.

EMBANKMENT — Generally common fill between the grubbed ground surface and subgrade.

ENGINEER — The Town Engineer, consultant or advisor, duly designated by the Planning Board, the Board of Selectmen or their appointed agent.

FINAL PLAT — The final drawing or drawings on which the subdivider's plan of subdivision is indicated, prepared as required under the provisions of §§ 130-24 and 130-25.

FLOOD — A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of streams or rivers or abnormally rising lake waters resulting from severe storms.

FLOODPLAIN, ONE-HUNDRED-YEAR — A land area adjoining a river, stream, watercourse, bay or lake which is likely to be flooded once every 100 years or has a one-percent chance of occurring each year as designated in Chapter 190, Zoning, of the Conway Code.

GRADE — The slope of a road, channel or natural ground.

HEADWALL — A structure protecting the exposed ends of drainage structures from erosion and directing the flow of water into the structure. Headwalls for road culverts are typically

required to be constructed of reinforced concrete, mortared stone or granite slabs. Headwalls for driveway culverts may also consist of prefabricated end-sections with toe plate extensions.

HEALTH OFFICER — The Health Officer of the Town of Conway, New Hampshire.

INTERSECTION — That location where more than one street intersects. In no case shall more than two streets meet at an intersection.

INVERT — The elevation at which the bottom of a pipe is to be set.

LIMITS OF ROADBED — That area which the travel way, shoulders, sidewalks, ditches and slope grading encompass.

LOCAL ROAD — Roads that provide access to dwellings and businesses.

LOT — A parcel of land or any part thereof designated on a plat to be filed with the Register of Deeds by its owner or owners as a separate lot. For purposes of these regulations, a lot shall have boundaries identical to those recorded with the Register of Deeds.

LOT LINE — The property line dividing a lot from a street, right-of-way, a body of water or adjacent property.

LOT SIZE — The total horizontal land area within the boundaries of a lot, exclusive of any land area designated for street purposes.

MASTER PLAN — The Comprehensive Plan or plan of development for the municipality, as defined in RSA 674:2.

PARKING SPACE — An off-street space for exclusive use as a parking area for one motor vehicle, with a minimum size of nine feet by 18 feet to conform to Chapter 110, Site Plan Review, of the Conway Code.

PAVEMENT — Hot-laid bituminous pavement.

PLAT — A map or representation of land subdivided into lots, which shows the planned or mapped lines of future streets, street extensions, street widenings or street narrowings.

PRIVATE ROAD — Any road which has not been accepted as a Town road by the Town of Conway.

RIGHT-OF-WAY (ROW) — A general term denoting land, property or interest therein, usually in a strip, acquired for or devoted to transportation purposes.

ROAD — A public way designated for purposes of vehicular travel or vehicular and pedestrian travel, including the entire area within the right-of-way, avenues, boulevards, highways, streets and all other ways.

SEDIMENT — Solid material, both mineral and organic, that is in suspension, is being transported or has been moved from its site of origin by air, water or gravity as a product of erosion.

SHOULDER — That portion of a roadway between the edge of the wearing course and the top of the foreslope of a ditch or fill slope.

SIDEWALK — That portion of a street between the curblines, or the lateral lines of a roadway, and the adjacent property lines intended for use of pedestrians.

SIGHT DISTANCE, MINIMUM — That distance, achieved for both vertical and horizontal curves, at which a driver, whose eyes are at a height of 3 1/2 feet above the road surface, can see an object 1/2 foot in height on the road.

SITE — That portion of a lot, tract or parcel of land upon which a structure is placed, including all physical improvements.

SLOPE — The steepness of land surface. Slope is expressed as a percent by dividing the change in elevation by a given horizontal distance and multiplying by 100%.

SOIL TYPE — As defined by the Soil Survey of Carroll County, New Hampshire or as found by an on-site inspection by a soil scientist.

STREET — A state highway or a highway, road, avenue, lane and/or any other way which exists for vehicular travel, exclusive of a driveway serving not more than two adjacent lots or units. The word "street" shall include the entire right-of-way.¹

SUBDIVIDER — The owner of record of the land to be subdivided, including any subsequent owner of record making any subdivision of such land or any part thereof, or the agent of any such owner.

SUBDIVISION — The division of a lot, tract or parcel of land into two or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance or building development. It includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision. A boundary (lot) line adjustment shall be deemed a subdivision.

SUBGRADE — The elevation to which the embankment must be brought up prior to the installation of aggregate base.

TERRAIN CLASSIFICATION — As there is a wide variation of existing slopes in this region, streets must be designed to work with the existing topography. The terrain classification is representative of the existing topography of the area on which a street is to be constructed. The existing grade is measured perpendicular to the existing contours, averaged over a distance of approximately 1,000 feet centered on the road. When a question arises as to which classification a street should be, the Planning Board shall make the final determination.

- A. **LEVEL** — Existing grades of 0% to 8%.
- B. **ROLLING** — Existing grades of 8.1% to 15%.
- C. **HILLY** — Existing grades of more than 15%.

1. **Editor's Note:** The definitions of "street, arterial," "street, collector" and "street, local," which immediately followed this definition, were repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

UNSUITABLE MATERIALS — Those materials which tend to deteriorate a street if left in place, such as loam, peat, vegetative or organic matter, roots, stumps, boulders, ledge, clay, muck and other material deemed unsuitable by the Town in the field.

VALUATION — As per the assessment records of the Town of Conway, factored up to 100% value.

ARTICLE II Application and Approval Procedure

§ 130-4. Approval required prior to commencement of work.

Whenever any subdivision of land is proposed, before any construction, land clearing or building development is begun, before any permit for the erection of any building in such proposed subdivision shall be granted and before any subdivision plat may be filed in the Registry of Deeds of Carroll County, the subdivider or his authorized agent shall apply for and secure approval of such proposed subdivision in accordance with the following procedure.

§ 130-5. Conceptual consultation.

- A. The applicant may appear at a regular meeting of the Planning Board to discuss a proposal in conceptual form and in general terms. Such preliminary consultation shall be informal and directed towards:
 - (1) Reviewing the basic concepts of the proposal.
 - (2) Reviewing the proposal with regards to the desirability of types of development and proposals under the Town's Master Plan and Chapter 190, Zoning, of the Conway Code.
 - (3) Guiding the applicant relative to necessary state and local requirements.
- B. Conceptual consultation and review shall not bind the applicant or the Board. Such discussion may occur without formal public notice as provided in §§ 130-10 and 130-11. However, no discussions beyond the conceptual and general review shall take place as described in § 130-11.
- C. Conceptual consultation and review shall be separate and apart from formal consideration under §§ 130-7 and 130-8, and the time limits for acting under § 130-9 shall not apply until a formal completed application is submitted.

§ 130-6. Design review.

- A. The applicant may submit a plan for design review to the Secretary of the Board not less than 22 days before any regular meeting of the Board. This optional step may aid both the applicant and the Board in reviewing the proposal. The design review submission shall include:

- (1) A list of all abutters and their addresses and mailing labels.
 - (2) A check to cover mailing and advertising costs as stated in § 130-12.
 - (3) A preliminary plan in accordance with § 130-22 stamped "design review" to distinguish it from a completed application.
- B. The Board, before taking action on the design review, may discuss the plan with the applicant, and, after such discussion, the Board may communicate to the subdivider specific suggestions to assist in resolving problems prior to the submission of a completed application. The Board may inform the applicant of any special studies required by the subdivision regulations that may be required in a completed application, such as the impact of the proposal on water, sewers, roads, traffic, schools, fire protection or other municipal services.
- C. Notice of the submission of a preliminary layout shall be given as provided in § 130-11.
- D. Time limits for consideration and action shall not apply to this submission. Public hearing notice requirements shall apply.

§ 130-7. Information required for completed application.

- A. A completed application sufficient to invoke the jurisdiction of the Board must include sufficient information to allow the Board to proceed with consideration and to make an informed decision.
- B. The following shall be required for and constitute a completed application:
- (1) An application for subdivision approval properly filled out and executed by the applicant and filed with the Board in accordance with § 130-8 and one set of such names and addresses typed on adhesive mailing labels.
 - (2) Using the abutters list form provided by the Town,² the applicant shall prepare a current list of abutters no sooner than five days prior to the submission of the application. In the case of an abutting property being under condominium or other collective form of ownership, the term "abutter" means the officers of the collective or association. It shall be the applicant's responsibility to ensure that the names and addresses regarding officers of a collective or association noticed under this article are current and complete. In the case of an abutting property being in another municipality, it shall be the applicant's responsibility to ensure that the names and addresses regarding those properties are current and complete.
 - (3) A check, payable to the Board, to cover filing fees, mailing, advertising, recording and other costs as provided in § 130-12.
 - (4) Four paper print copies of the preliminary layout in accordance with and accompanied by the information required in § 130-23.

2. Editor's Note: A sample "List of Abutters" form is included as an attachment to this chapter.

§ 130-8. Filing and submission of application.

- A. The completed application shall be filed with the Secretary or the Chairman of the Board at least 22 days prior to a scheduled public meeting of the Board. When consideration of an application is continued and new information is required, the Board shall specify the deadline for filing this new information. In no case shall it be fewer than 10 days prior to the meeting. The deadline shall be stated in the motion to continue.
- B. The completed application shall be formally submitted for acceptance by the Board only at a regularly scheduled public meeting after due notification to the applicant, abutters and the general public of the date the completed application will be submitted and received by the Board.
- C. An incomplete application filed by the applicant will not be formally accepted by the Board nor will notices of a public meeting be mailed, posted or published as provided under § 130-11.
- D. Applications may be disapproved by the Board without public hearing on grounds of failure of the applicant to supply information required by these regulations, including:
 - (1) Abutters' identification and information required for preliminary layout.
 - (2) Failure to pay costs of notices or other costs and fees required by these regulations.
 - (3) Failure to meet any reasonable deadline established by these regulations.
 - (4) Failure to provide the appropriate plans.

§ 130-9. Action on completed application.

- A. The Board shall consider the completed application within 30 days of its acceptance. After review of the completed application and after a duly noticed public hearing, as provided in § 130-10, the Board may grant a conditional approval of the completed application and request the applicant to prepare a final plat as provided for in §§ 130-24 and 130-25. The Board shall act to approve or disapprove the completed application and final plat within 65 days after submission of the completed application, subject to extension or waiver as provided in accordance with RSA 676:4, I(f).
- B. Conditional approvals shall be assigned an expiration date which is coincident with a regularly scheduled meeting not more than 90 days from the date when the conditional approval is granted. The Planning Board may, at its discretion, extend the expiration date beyond 90 days. However, in no case shall the expiration date be extended beyond one year from the original date when the conditional approval was granted unless the Planning Board for good cause agrees to extend the conditional approval for an additional period of time beyond that one-year period.
- C. Approval of the final plat shall be certified by written endorsement of the final plat and signed by the Chairman or Secretary of the Board. The Chairman or Secretary of the Board shall transmit a copy of the final plat with such approval endorsed in writing therein to the Registry of Deeds of Carroll County. The subdivider shall be responsible for the payment of all recording fees. In case of disapproval of any plat submitted, the

grounds for such disapproval shall be adequately stated in the records of the Planning Board and written notice given to the applicant.

- D. If the Planning Board has not obtained an extension as provided in Subsection A and has not taken action to approve or disapprove the completed application within 65 days of its acceptance, the applicant may seek review as provided in RSA 676:4.³

§ 130-10. Public hearing.

Prior to approval of a subdivision, a public hearing shall be held as required by RSA 676:4, I(e), and notice to the applicant and abutters and the public shall be given in accordance with § 130-11. The public hearing shall be held within 30 days after submission of the completed application.

§ 130-11. Notices.

- A. Notice of the submission of a preliminary layout or a completed application shall be given by the Board.
- B. Public notice shall be mailed to the applicant, holders of conservation, preservation or agricultural preservation restrictions, the applicant's authorized representative, and each abutter at least 10 days prior to the meeting for which the notice is required. Such notification shall be mailed by certified mail.
- (1) Using the abutters list form provided by the Town,⁴ the applicant shall prepare a current list of abutters no sooner than five days prior to the submission of the application. In the case of an abutting property being under condominium or other collective form of ownership, the term "abutter" means the officers of the collective or association. It shall be the applicant's responsibility to ensure that the names and addresses regarding officers of a collective or association noticed under this article are current and complete. In the case of an abutting property being in another municipality, it shall be the applicant's responsibility to ensure that the names and addresses regarding those properties are current and complete; and
- (2) The applicant shall provide an adhesive mailing label for each party on the abutters list, including the applicant and authorized representative.
- C. Public notice shall be posted at Town Hall and one other public place at least 10 days prior to the meeting.
- D. Public notice shall be published in a newspaper of general circulation. This notice shall be sent to the newspaper at least 10 days prior to the meeting.
- E. Continuation of a meeting or public hearing shall not require new public notice, provided that, at the prior hearing, the Board shall state the location, date, time at which the

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

4. Editor's Note: A sample "List of Abutters" form is included as an attachment to this chapter.

continued session will resume, and deadlines for the submission of new or updated materials.

§ 130-12. Fees and costs. ⁵

- A. An application for a subdivision shall not be considered complete unless it includes filing fees in accordance with the fee schedule adopted by the Board of Selectmen and amended from time to time.
- B. All costs of notices, whether mailed, posted or published, shall be paid in advance by the applicant. Failure to pay costs shall constitute valid grounds for the Board to terminate further consideration and to disapprove the application without a public hearing.
- C. A Tax Map amendment fee shall be assessed for each plan sheet to be used to amend the Town's Tax Maps. Said fee shall be paid by the applicant prior to final approval.
- D. Applications that require an engineering review shall be assessed a fee. Said fee shall be paid by the applicant prior to final approval. In the event that the Town Engineer is not available to review an application, said review shall be performed in accordance with Subsection E.
- E. The Board may require special investigative studies, environmental assessments, a legal review of documents, administrative expenses and other matters necessary to make an informed decision. The cost of such studies and investigations shall be paid by the applicant prior to final approval or disapproval. The applicant shall submit funds based on the estimated costs to the Town prior to the Town procuring such studies and investigations. The individual or company engaged shall work for and report directly to the Town. The individual or company chosen shall be agreeable to both the Town and the applicant.
- F. When a completed application is submitted to the Town, it will be reviewed by Planning Department staff. Comments will be made in writing and forwarded to the applicant. If the plans are resubmitted by the applicant without addressing the original comments and requests or if the design does not conform to the Town's adopted standards, the applicant will be charged an additional fee. Said fee shall be paid by the applicant prior to final approval.
- G. A plan scanning fee shall be assessed to facilitate digitizing the final approved plans.
- H. A Land and Community Heritage Program (LCHIP) surcharge fee of \$25 shall be assessed for any plans to be recorded. This fee shall be submitted in the form of a check payable to the Carroll County Registry of Deeds.

§ 130-13. Performance guaranty or bond.

- A. As a condition precedent to final approval of any subdivision, the subdivider shall file with the Board at the time of submission of the final plat a certified check payable to the

⁵ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Town of Conway, or a faithful performance bond running to the Town and issued by a surety company acceptable to the Selectmen, or cash in an escrow account in the name of the developer and the Town, in an amount of money equal to the total of the cost of construction of all streets, utilities and improvements plus a contingency of 15%, as specified on the final plat.

- B. The Planning Board may waive the requirement to post bond for infrastructure, but not for site stabilization and erosion control, and grant approval of the final plat on condition that no lot in the subdivision shall be sold and that no permit to build shall be issued by the Town of Conway until all street and utility requirements have been installed and completed at the subdivider's expense in accordance with all applicable provisions of the final plat.

§ 130-14. Filing plat with County Registry of Deeds.

An approved subdivision plat shall be recorded with the Carroll County Registry of Deeds prior to any sale or transfer of land within the subdivision.

ARTICLE III

Concurrent Subdivision and Site Plan Consideration

§ 130-15. Request for concurrent consideration.

Any applicant requiring both subdivision and site plan approval may request concurrent consideration of the proposed subdivision and development after a meeting with the Planning Board for preliminary consultation and review. This request shall be presented in written form to the Planning Board at a regular meeting. The Planning Board may, at its discretion, approve or deny this request, but shall inform the applicant of its decision, in writing, within 30 days.

§ 130-16. Submission for design review.

An applicant may submit a preliminary subdivision layout for design review to the Planning Board for its review as described in § 130-6.

§ 130-17. Information required for concurrent application.

- A. A completed concurrent application sufficient to invoke jurisdiction of the Board must include sufficient information to allow the Board to proceed with consideration and to make an informed decision.
- B. The following shall be required for and constitute a completed concurrent application: a concurrent application for subdivision and site plan approval properly filled out and executed by the applicant and filed with the Board in accordance with § 130-18, together with the following:

- (1) The names and address of the applicant and all abutters as indicated in Town records not more than five days before the day of filing. In the case of an abutting property being under condominium or other collective form of ownership, the term "abutter" means the officers of the collective or association. It shall be the applicant's responsibility to ensure that the names and addresses regarding officers of a collective or association noticed under this article are current and complete at the time of application submission. In the case of an abutting property being in another municipality, it shall be the applicant's responsibility to ensure that the names and addresses regarding those properties are current and complete at the time of application submission.
- (2) All fees as specified in § 130-21.
- (3) Four paper print copies of the site plan layout in accordance with and accompanied by the information required in Chapter 110, Site Plan Review, § 110-13, of the Conway Code.
- (4) Four paper print copies of the preliminary subdivision layout in accordance with and accompanied by the information required in § 130-23.

§ 130-18. Filing and submission of concurrent application.

- A. The completed concurrent application shall be filed with the Board or its agent at least 22 days prior to a scheduled public meeting of the Board.
- B. The completed concurrent application shall be formally submitted to and accepted by the Board only at a regularly scheduled public meeting after due notification to the applicant, abutters and the general public of the date the completed concurrent application will be submitted and received by the Board.
- C. An incomplete concurrent application filed by the applicant will not be formally accepted by the Board nor will notices of a public meeting be mailed, posted or published as provided under § 130-11.
- D. Concurrent applications may be disapproved by the Board without public hearing on the grounds of failure of the applicant to supply information required by these regulations, including:
 - (1) Abutters' identification.
 - (2) Failure to pay costs of notices or other costs and fees required by these regulations.
 - (3) Failure to meet any reasonable deadline established by these regulations.
 - (4) Failure to provide the appropriate plans or information required.
- E. When a completed concurrent application is accepted by the Board, the Board shall provide a receipt to the applicant indicating the date of formal acceptance.

§ 130-19. Action on completed concurrent application.

- A. The Board shall consider the completed concurrent application within 30 days of its submission. The Board shall evaluate the subdivision and site plan separately, each on its own merits. After review of the completed concurrent application, and after a duly noticed public hearing as provided in § 130-10, the Board may grant a conditional approval of the subdivision layout and request the applicant to prepare a final plat as provided for in §§ 130-24 and 130-25. The Board may grant a conditional approval or a final approval of the site plan. The Board shall act to approve or disapprove the completed concurrent application within 65 days of acceptance of the completed concurrent application, subject to extension or waiver as provided in accordance with RSA 676:4, I(f).
- B. Approval of the final plat and site plan shall be certified by written endorsement on the final plat and site plan and signed by the Chairman or the Secretary of the Board. The Chairman, Secretary of the Board or its agent shall transmit a copy of the final plat and site plan with such approval endorsed in writing therein to the Register of Deeds of Carroll County. The applicant shall be responsible for the payment of all recording fees. In case of disapproval of any plat or plan submitted, the grounds for such disapproval shall be adequately stated in the records of the Planning Board and written notice given to the applicant.
- C. If the Planning Board has not obtained an extension as provided in Subsection A, and has not taken action to approve or disapprove the completed concurrent application within 65 days of its acceptance, the applicant may seek review as provided in RSA 676:4.⁶
- D. Conditional approval shall be valid for a period as determined by the Planning Board, but in no case shall it be valid for a period greater than 90 days from the date conditional approval is granted, unless extended in writing by the Board.

§ 130-20. Public hearing.

A public hearing shall be held with notice given as described in §§ 130-10 and 130-11.

§ 130-21. Fees.

Under concurrent subdivision and site plan review application, a check payable to the "Town of Conway" shall be submitted to cover filing fees specified in § 130-12 or 110-8, whichever is greater, plus all other applicable fees for public notice, recording, special studies, and so forth as specified in these regulations.

6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

ARTICLE IV
Submission Requirements

§ 130-22. Information required for conceptual consultation and design review.

- A. The following items are required for conceptual consultation:
- (1) A base map, Tax Map or United States Geological Survey Map to show the location of the proposal.
- B. The following items are required for design review:
- (1) A site location map.
 - (2) A site survey showing natural and man-made features of the site.
 - (3) Other existing or proposed subdivisions in the area adjacent to the site.
 - (4) A topographic map of the area.
 - (5) Soils information, percolation and boring data.
 - (6) A sketch showing proposed lots or building sites, layout of streets, recreation areas, watercourses, natural features and easements and abutters' names and addresses.

§ 130-23. Information required for completed application acceptance.

The preliminary layout for a subdivision shall be prepared to a scale of no more than one inch equals 100 feet or at greater detail as directed by the Board to indicate clearly existing and proposed features of the site. Said plat shall be prepared on standard sheets of 22 inches by 34 inches, measured from the cutting edges. If one sheet is not of sufficient size to contain the entire area of the site and environs, the plan shall be divided into sections to be shown on separate sheets of equal size with references on each sheet to the adjoining sheets. The preliminary layout for a subdivision shall, at the discretion of and in a manner prescribed by the Planning Board or its designee, show or be accompanied by the following:

- A. The date, name and location of the subdivision on a vicinity or site location map showing the relation of the proposed subdivision to existing streets or roads, name of the record owner and subdivider, graphic scale and reference meridian and the name of the engineer or surveyor.
- B. Boundaries and area of the entire parcel, whether or not all land therein is to be subdivided; date and dates of any revisions.
- C. The names and addresses of abutting property owners and Tax Map number, subdivisions and building within 100 feet of the parcel to be subdivided and intersecting roads and driveways within 200 feet of the parcel to be subdivided. Proposed lots shall be numbered consecutively.
- D. Existing and proposed street right-of-way lines, widths of streets, proposed names of new streets, existing and proposed lot lines.

- E. Location of existing and proposed easements, deed restrictions, buildings, accessory buildings, building setback lines, parks and other open spaces to be reserved or dedicated to public use, watercourses, flood-prone areas (one-hundred-year flood limit line), foliage lines and significant natural and man-made features, water mains, sanitary sewers, stormwater drainage lines, drainage structures and drainageways within the subdivision and all existing structures and wooded areas within 200 feet of the boundaries of the proposed subdivision.
- F. The purpose of any easements or land reserved or dedicated to public use shall be designated, and the proposed use of sites other than residential shall be noted.
- G. Existing and proposed plans for telephone, electricity and other utilities.
- H. Boundaries and designations of zoning districts, if any, lying within the subdivision; municipal boundary, if any; land use designation from the Master Plan.
- I. A general site location map locating the subdivision boundary and proposed streets in relation to at least two existing intersecting streets, adjacent or future subdivisions or other features.
- J. Soil mapping units and unit boundaries.
- K. A statement of conditions of land as to soil suitability for development, including a map showing the required minimum contiguous area of 8,000 square feet of less than 15% slope per lot or single-family detached unit or 4,000 square feet or less than 15% slope per unit for multifamily attached units. This shall not include buffer or setback areas.
- L. A statement of the work required on existing streets to meet the minimum standards set herein, including cost estimates and the method of meeting such costs.
- M. A statement as to the compliance of the proposed lots with zoning requirements. If any lots do not comply but are covered by zoning variances, the statement should include reference to such variances.
- N. A statement and two-foot contours in sufficient detail to indicate clearly the method of stormwater drainage on and off the subdivision, methods of sanitary sewage disposal and water supply.
- O. Watershed areas, preliminary drainage analysis and preliminary drainage computations.
- P. Preliminary road profiles.
- Q. Duplicate copies of all data submitted to all state agencies requesting subdivision approval or necessary permits, including, but not limited to, NHDOT and NHDES.⁷
- R. A statement that the proposed street center lines and lot locations have been adequately flagged on the ground at the site to allow on-site evaluation of the proposed subdivision by the Board.

7. **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**

- S. A copy of the application(s) or approval(s), as prescribed by law, from any other municipal, state or federal agency which may have jurisdiction.
- T. A test pit with description of soil layers, depth to seasonal high water table, depth to observed water table or hardpan, ledge, etc.
- U. Percolation test and date.
- V. A four-thousand-square-foot site suitable for sewage disposal (in accordance with NH DES Env Wq 1000).
- W. At least one benchmark, plainly marked in the field and shown on the plan with its elevation. Ties to National Geodetic Survey, United States Geological Survey or Soil Conservation System benchmarks may be required.
- X. If a subdivision is to be served by a municipal water supply or municipal sewers, a statement from the municipal department involved attesting to the availability of such services.

§ 130-24. Final plat information and materials required.

Four copies of the final plat shall be submitted as line paper prints in blue ink. Sheet sizes shall be 24 inches by 36 inches. Maps shall be at a scale of no more than 100 feet per inch. Space shall be reserved on the plat for endorsement by the Planning Board and all appropriate agencies. The final plat shall be consistent with the conditionally approved preliminary layout. The plat shall contain the following statement: "The Subdivision Regulations of the Town of Conway are a part of this plat, and approval of this plat is contingent on completion of all the requirements of said Subdivision Regulations, excepting only any waivers of modifications made in writing by the Board and attached hereto." The final plat or map of a subdivision shall, at the discretion of and in a manner prescribed by the Planning Board or its designee, contain or be accompanied by the following information:

- A. Date, name of municipality and subdivision, name and address of the subdivider and designer.
- B. Boundaries and area of the entire parcel, whether or not all land therein is to be subdivided (In whatever manner is practical, the subdivision boundary shall be referenced to the Town of Conway street right-of-way monuments, state highway right-of-way monuments, National Geodetic Survey horizontal control points, state plane grid coordinates or a road intersection), North point, bar scale, date and dates of any revisions.
- C. Names and addresses of abutting property owners, Tax Map number, subdivisions and buildings within 100 feet of the parcel to be subdivided and intersecting roads and driveways within 200 feet of the parcel to be subdivided.
- D. Existing and proposed street right-of-way lines, dimensions of center line radii, tangents, deflection angles, stationing and chords, dimensions of right-of-way line radii and arc length, accurate locations and descriptions of all monuments to be set at street

intersections, points of curvature and tangency of curved streets and at angles of lots, names of existing and proposed streets.

- E. Existing and proposed lot lines and/or unit locations, bearings and dimensions, lot sizes in square feet and acres, consecutive numbering of lots and/or units, monuments at lot corners; lots and/or units shall be numbered consecutively as instructed by the Engineer.
- F. Location of existing and proposed easements, deed restrictions, building setback lines, parks and other open space to be dedicated to public use, watercourses and significant natural and man-made features.
- G. The purpose of any easement or land reserved or dedicated to public use shall be designated, and the proposed use of sites other than residential shall be noted.
- H. A general site location map locating exactly the proposed subdivision boundary in relation to major roads and community facilities in the immediate area of the Town.
- I. Name and seal of engineer and/or land surveyor licensed by the State of New Hampshire.
- J. Certification of the engineer or surveyor as to the accuracy of plat details (e.g.: "The information shown on and the standards and calculations used to produce this plan are correct and complete.").
- K. Certification that the applicant is the agent for the owner or is the owner of the land or that the owner has given consent under an option agreement.
- L. A written acknowledgment of the subdivider's responsibility for maintenance of easement areas and the assumption by him of liability for injuries and damages that may occur on any land to be dedicated for public use until such land has been legally accepted by the Town.
- M. When approval of a plat is required by an officer or body of such a municipality, state or county, approval shall be certified on the plat in the appropriate space provided therefor on the plat.
- N. If a subdivision is to be served by public water supply or by public sewers, a statement from the municipal department or company involved, attesting to the availability of such service.
- O. Applicable State of New Hampshire DOT and DES approvals.⁸
- P. All surveying must conform to the procedural and technical standards of the Code of Administrative Rules of the Board of Licensure for Land Surveyors, as amended.⁹
- Q. Plan for recreational development of open space (if appropriate).
- R. Boundary line adjustment plans must clearly state the original property line that is to be abandoned and the proposed property line, and the area to be adjusted must be

8. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

9. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

delineated: "To be combined with (the other lot) and not to be considered a separate lot of record."

- S. One set of proposed subdivision plans shall be submitted to the Fire Chief of the appropriate fire district or precinct for his review and comment. If the proposed lot to be subdivided is not in a district or precinct, the plans shall be reviewed by the Fire Chief of the district or precinct which covers that area. No subdivision plan shall be approved without a letter from the appropriate Fire Chief stating that he has reviewed the plans and listing any comments he may wish to offer.
- T. If there are any plans which supplement the subdivision plan, a note shall be placed on the subdivision plan listing all supplemental plans.
- U. The final plat shall include a note that the landscaping of the site depicted on this plan is integral to the approval by the Conway Planning Board and shall be reasonably maintained and, when dead or removed, must be reasonably replaced.¹⁰
- V. The final plat shall include a note that the owner has represented to the Conway Planning Board and depicted or noted hereon all known restrictions and easements applicable to this land. All applicable restrictions and easements of record for this land, whether or not depicted or noted hereon, shall not be affected or modified by the approval hereunder.¹¹

§ 130-25. Additional information for final plat.

As part of the final plat submission, the subdivider or his agent may be required, at the discretion of and in a manner prescribed by the Planning Board or its designee, to submit any or all of the following:

- A. Subdivision grading and drainage plan. Where appropriate, this plan shall be submitted on a separate sheet or sheets and shall provide the following information for the entire area of the proposed subdivision, unless there is a determination by the Board that a lesser area is sufficient:
 - (1) Basic street and lot layout, with all lots numbered consecutively.
 - (2) Location of all existing and proposed buildings.
 - (3) Contours of existing grade at intervals of not more than two feet. Contour lines shall extend a minimum of 100 feet beyond the subdivision boundary.
 - (4) Plan showing the direction of flow of the runoff.
 - (5) The engineering calculations used to determine the drainage requirements.
 - (6) Final identification, location, elevation, grades and/or contours at intervals of not more than two feet (less interval may be required depending on topography) for

10. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

11. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

the existing and proposed drainageways, drainage easements, drainage structures and water bodies.

- (7) Final identification and location of proposed soil erosion and sediment control measures and structures.
 - (8) Final drawings and specifications for each proposed soil erosion and sediment control measure and structure in accordance with formal and informal guidelines acceptable to the Town.
 - (9) Final drawings, details and specifications for proposed flood hazard prevention measures and structures and for proposed stormwater retention basins.
 - (10) Final slope stabilization details and specifications.
 - (11) A timing schedule indicating the anticipated starting and completion dates of the subdivision development and the time of exposure of each area prior to the completion of effective soil erosion and sediment control measures.
- B. Road design. Road design in compliance with the standards contained in Article X shall be submitted (four sets of prints) on a separate sheet of plan and profile paper, 22 inches by 34 inches in size, and having a horizontal scale of one inch equals 50 feet and a vertical scale one inch equals 10 feet, to the Board of Selectmen for review and approval. In the case of a road, which is part of a subdivision, subdivision approval will not be granted until a satisfactory street design is approved. The plan(s) submitted shall show the information listed in Article X, § 130-67H, Minimum data required on street design plans.
- C. Subdivision utility plan. This plan shall be submitted on a separate sheet or sheets and provide the following information: the location of sewer and drain Y-branches, laterals, manholes, catch basins, hydrants, valves, curb shutoffs and final grading showing swales and ditches.
- D. Subdivision as-built plans. Before the final inspection and acceptance of a road or other improvements by the Town, the owner(s) shall have prepared and submitted an as-built plan to the Planning Board. These plans should show as-built locations and elevations in a contrasting color (preferably red ink) on a print of the original road design or final plat. The as-built road plan shall show the as-built center line of street elevations, as-built drainage systems, including culverts, catch basins, drainage easements, as-built guardrail and sign locations and road profiles and final grading showing swales and ditches. The as-built utility plan shall show the location of sewer and drain Y-branches, laterals, manholes, catch basins, hydrants, valves, curb shutoffs and final grading showing swales and ditches. The plan shall also show easements and dedicated roadways.¹²
- E. Other professional services the Planning Board deems necessary at the developer's expense.

12. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

ARTICLE V
Design Standards

§ 130-26. Compliance, approval and permits required.

No subdivision of land shall be made and no land in any subdivision shall be sold or offered for sale or lease, and no street or utility construction shall be started until a final plat, prepared in accordance with the requirements of these regulations, has been approved by the Board and other required permits have been issued.

§ 130-27. Character of land to be considered.

Land of such character that it cannot, in the judgment of the Board, be safely used for building development purposes because of exceptional danger to health or peril from fire, flood, poor drainage, excessive slope or other hazardous conditions shall not be platted for residential, commercial or industrial subdivision, nor for such other uses as may increase the danger to life or property or aggravate the flood hazard. Land with inadequate characteristics or capacity for sanitary sewage disposal shall not be subdivided for residential, commercial or industrial subdivision purposes unless connected to a municipal sewerage system. Land intended for either on-site sewage disposal or on-site water supply shall conform to the standards of § 130-28, Factors for determining suitability of land.

§ 130-28. Factors for determining suitability of land.

According to the provisions of RSA 674:36, II(i), each lot shall include sufficient contiguous land to meet the minimum lot size requirements prescribed in Chapter 190, Zoning, of the Conway Code in order to assure that each lot has additional area as may be needed for on-site development, such as driveways, buildings, landscaping, grading, septic facilities, alternate septic facilities, drainage and other alterations or changes of land use. Each lot shall also comply with New Hampshire Code of Administrative Rules Chapter Env-Wq 1000.

- A. The subdivider shall submit a map identifying the specific soil types present on each proposed lot. The soil map shall also show the portions of each soil type that have a slope of 0% to 3%, 3% to 8%, 8% to 15%, 15% to 25%, 25% to 35% and over 35%. The soil types shown shall conform to the Soil Survey of Carroll County or as found by an on-site inspection by a soil scientist. The slope shall be determined by a field survey or by controlled aerial photogrammetry provided by a licensed land surveyor or professional engineer.
- B. Wetland, floodplain and land with slopes greater than 25% may not be used to fulfill part of the minimum lot size, except that floodplain land in the area around Pequawket Pond between the one-hundred-year and the ten-year flood level (464.6 feet to 461.5 feet), provided that it is serviced by precinct water and sewerage.

§ 130-29. Lot and site layout.

The layout of lots and sites shall conform to the specifications and the requirements of the zoning regulations where in force and shall be appropriate for the intended construction. If

allowed in the zoning regulations, a subdivision plat may be designed for cluster or planned unit development, provided that all requirements of these and such zoning regulations are met. The layout of lots and sites shall be in conformance with the following conditions:

- A. The lot size, width, depth, shape, orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
- B. All lots must front on a street.
- C. Lot dimensions and area shall not be less than the requirements of Chapter 190, Zoning, of the Conway Code and as required by soil or topography conditions. Lots shall be sized according to the land suitability standards set forth in § 130-28.
- D. Where there is a question as to the suitability of a lot or lots for its or their intended use due to the presence of such factors as rock formations, steep slopes, unusual surface configurations, tendency to periodic flooding, poor drainage, unsuitable soil or soils and inadequate capacity for sanitary sewer disposal, even if the lot complies with the size requirements in § 130-28, the Planning Board may, after adequate investigation, withhold approval of such lot or lots or require modifications to such lots.
- E. The lot length-to-width ratio should generally not exceed 3:1.
- F. Corner lots should have extra width sufficient to permit a setback on each street.
- G. Where extra width has been dedication for widening of existing streets, lots shall begin at such extra-width line, and all setbacks shall be measured from such line.
- H. Side lines of lots shall generally be at right angles to straight streets and radial to curved streets.
- I. Lots fronting on two parallel streets will not, in general, be approved.
- J. Where lots abut existing roads with a high traffic volume, at the discretion of the Planning Board, marginal access roads or reversed-frontage approach may be required to minimize the number of driveways and/or streets which have access to the high-volume streets.
- K. Existing nonresidential-use or multifamily-dwelling-use land shall not be subdivided into a shape or size which will not enable the existing (and assumed to be continued) use to conform to the standards of Chapter 110, Site Plan Review, of the Conway Code.
- L. The clustering of lots may be permitted and is encouraged for the preservation of open space, to promote efficient use of land and to provide flexibility in subdivision design. Where clustered lots are proposed, the minimum lot size shall be as determined by the Planning Board, based upon the character of the land involved, the type of housing proposed and other pertinent factors, provided that the total number of lots shall remain at substantially the same overall density as required in a conventional subdivision layout, with all requirements of the subdivision regulations being met.
- M. The area which is not designated for lots shall be consolidated into open space. The common space shall be designed as an integral part of the development and used for

recreation, conservation or park purposes and be accessible to at least the owners and occupants of the lots in the cluster development. The common open space shall be so defined on the subdivision plan and shall be made subject to a deed restriction, which shall thereafter prohibit further subdivision of open space or the use of the open space for purposes other than originally designated.

§ 130-30. Lands divided by public rights-of-way.

Any transfer, conveyance or sale of land held in one ownership but already divided into lots or parcels of land by an existing public right-of-way shall not be considered a subdivision for the purposes of these regulations and shall not be required to conform to the procedures set forth herein.¹³

§ 130-31. Access crossing municipal boundaries.

Whenever access to the subdivision is required across land in another local government, the Planning Board may request assurance from the local government attorney that access is legally established and from the engineer that the access road is adequately improved or that a performance bond has been duly executed and is sufficient in amount to assure the construction of the access road. In general, lot lines should be laid out so as not to cross municipal boundary lines.

§ 130-32. Reserve strips controlling access to subdivision or other parcels.

Privately owned reserve strips, except an open space area, which control access to any part of the subdivision or to any other parcel of land from any street, or from any land dedicated to public use, or which may be so dedicated, shall not be permitted.

§ 130-33. Rights-of-way.

Rights-of-way shall be kept clear of buildings, parking lots or similar obstructions. A right-of-way shall not be used as a method to connect two nonadjacent lots to make a single lot nor shall a right-of-way be considered as part of an adjacent lot when determining minimum lot size.

§ 130-34. Subdivision and street names.

The name of the subdivision or roads shall not duplicate or too closely approximate the name of any other subdivision or road within the Town. Street names require the approval of the Planning Board. Streets obviously in alignment with existing streets shall be given the name of the existing street. New street names shall not duplicate or closely resemble those of existing streets.

13. Editor's Note: Original § 131-32, Nonconforming adjoining lots, which followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 130-35. Preservation of existing features; landscaping.

- A. The subdivider shall give due regard to the preservation and protection of existing features, trees, scenic points, brooks, streams, rock outcroppings, water bodies, other natural resources and historic landmarks.
- B. Due regard shall be given to preservation of existing trees, shrubbery and other vegetation within the subdivision. The Board may require additional tree planting and other landscaping appropriate to the area being subdivided. The subdivider shall comply with the following requirements:
- (1) To the fullest extent possible, all existing trees and shrubbery shall be preserved by the subdivider. Special consideration shall be given to the arrangement and ultimate improvement or development of the lots to this end. Precautions shall also be taken to protect existing trees, shrubbery and vegetation during construction of roads and utilities.
 - (2) Where any land other than that included in public rights-of-way is to be dedicated to the public use, the subdivider shall not remove any trees from the site without written permission from the Planning Board.
 - (3) All disturbed areas which are not covered by structures or paving shall be properly seeded or replanted by the subdivider.

§ 130-36. Additional landscaping.

- A. Suitable hardwood shade trees (such as sugar maple, Norway maple, red maple, ash or oak) shall be planted at sixty-foot intervals, on the average, along both sides of the streets or private ways unless waived by the Planning Board due to an adequate number of existing trees that will be saved. All trees shall be at least 2 1/2 inches in diameter measured at a point four feet above the finished grade level. The Planning Board shall have the final choice of tree species and exact planting locations.
- B. Performance bonds shall be posted with appropriate surety or security to cover the full costs of all landscaping. The amount of the bond shall be recommended by the Town Planner, and the form and execution of such bond shall be approved by the Board of Selectmen. The bond shall run for a term determined by the Planning Board but in no event shall it exceed three years nor be less than one year to ensure survival through a complete growing season.

§ 130-37. Topsoil.

Topsoil moved during the course of construction shall be redistributed so as to provide at least four inches of cover to all disturbed areas of the subdivision. At no time shall topsoil be removed from the site without written permission from the Planning Board.

§ 130-38. Scattered or premature development.

- A. Scattered or premature subdivision of land that would involve danger or injury to health, safety or prosperity by reason of lack of water supply, drainage, transportation, school, fire department or other public services, or such that a lack of these facilities would be a hazard or necessitate an excessive expenditure of public funds for the supply of such services shall not be approved by the Board. The Planning Board may, if the situation warrants, approve an entire subdivision, allowing only a portion thereof to be developed each year. This phased development would help permit an orderly expansion of its services within the Town to match growing needs.
- B. The following items shall be considered in determining whether the proposed subdivision is scattered or premature, and the subdivider may be required to have studies made under guidelines established by the Planning Board to determine the effect that the proposed subdivision may have on:
- (1) Distance from nearest elementary school.
 - (2) Capacity of school system and effect on school bus transportation.
 - (3) Adequacy of access street(s) and/or sidewalk(s).
 - (4) Adequacy of water supply for domestic and fire-fighting purposes.
 - (5) Potential health problems due to on-site sewage systems and/or water supply.
 - (6) Potential fire protection problems due to location and/or special conditions relative to type of use.
 - (7) Potential special policing problems.
 - (8) Potential drainage problems, both on the site and downstream.
 - (9) Causing an excessive expenditure of public funds.
 - (10) Other potential problems within the meaning or purpose of this section.

§ 130-39. Flood hazard areas. ¹⁴

All subdivision proposals and proposals for other developments governed by these regulations having lands identified as special flood hazard areas in the Flood Insurance Study for the Town of Conway, NH, together with associated Flood Insurance Rate Maps and Flood Boundary and Floodway Maps of the Town of Conway, shall meet the following requirements:

- A. All subdivision proposals and proposals for other developments shall be located and designed to assure that all public utilities and facilities, such as sewer, electrical and water systems, are located and constructed to minimize or eliminate flood damage and adequate drainage is provided to reduce exposure to flood hazards.

14. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- B. Subdivision proposals and other proposed new developments shall include one-hundred-year flood elevation data when any portion of the development is within the floodplain.

§ 130-40. Commercial/Industrial and multiple-dwelling units.

Each building used for commercial/industrial purposes without dwelling units shall be considered a single unit. In a building containing both commercial/industrial and dwelling units, each dwelling unit shall be counted as one unit, and all of the commercial/industrial occupants shall be counted as one unit. In a proposed development of mixed commercial and residential uses, there shall be adequate lot size to accommodate any existing structures and uses, required parking areas, septic areas and required greenspace prior to calculating the available acreage balance for additional units.

ARTICLE VI

Road Construction and Design

§ 130-41. Compliance required.

Proposed streets shall be in harmony and conformance with existing and proposed streets as shown on the Town Master Plan or Official Map. Street patterns shall give due consideration to contours and natural features. Where required by the Board, provisions shall be made for the extension of the street pattern to abutting undeveloped property. Every proposed street in a subdivision shall be laid out and constructed as required by the regulations contained in Article X, which are the standards adopted by the Selectmen for Town roads.

§ 130-42. Private roads.

- A. Private roads shall conform to the standards of this chapter since residents on private roads, as taxpayers, are entitled to the same quality as a Town-accepted road and since, at some future date, the taxpayers may petition the Town for acceptance of the road. Paving may be waived by the Planning Board for private roads with low traffic volumes and moderate grades. Before an unpaved private road may be accepted as a Town road, it shall be paved and brought up to Town standards in effect at that time.
- B. The subdivider shall supply to the Planning Board acceptable evidence of legally imposed requirements designating a reasonable and enforceable manner and procedure in perpetuity for the collection of contributions to ensure proper maintenance of all private roads and common facilities of the subdivision by owners of lots having rights thereto. The subdivider shall also supply acceptable evidence to the Planning Board determining legal responsibility and time schedules for completion of construction of all roads and common facilities of the subdivision, provided that phasing of the same concurrently with the phasing of the subdivision may be permitted.
- C. Any private road constructed within the Town will be inspected as described in Article X of this chapter. This evaluation will apprise the Planning Board and owner(s) of deviation(s) from the minimum standards of road design and construction as adopted for

the Town and provide the Planning Board and owner(s) with a base from which to start should work be required to bring the road up to minimum design and construction standards should the road ever be considered for acceptance as a Town road.

- D. It is the policy of the Town that no private road will be accepted as a Town road unless its design and construction meet the standards set forth in this chapter.

§ 130-43. Bridges.

On stream crossings spanning 10 feet or more, the structure shall be designed to SHS-20 loading (AASHTO specifications). The minimum roadway width shall be 26 feet. All bridge designs shall be done and stamped by a professional engineer.

§ 130-44. Sidewalks.

See § 130-66C(3).

§ 130-45. Highway bounds and signs.

- A. Highway bounds of concrete or stone at least 24 inches in length and four inches square shall be installed at all intersections of streets, at all points of change in direction and at any other points the Planning Board may deem necessary to designate the street lines.
- B. Signs shall conform to the Manual on Uniform Traffic Control Devices.

§ 130-46. Off-street parking.

All subdivision development shall contain off-street parking to be provided at the rate of at least two parking spaces per dwelling unit. In order to provide for the most efficient means of road maintenance, snowplowing and access by emergency, police and fire vehicles, no parking of vehicles within the street shall be permitted.

§ 130-47. Installation of utilities.

- A. All subdivisions shall make adequate provisions for water supply, sanitary sewage disposal and required utilities and improvements. All such utility system installations and any damages shall be at the expense of the subdivider. All utility systems shall be installed under the supervision of the appropriate Town precinct or utility agent.
- B. The Board may require an extension of public water and sewers to and within a proposed subdivision, without cost to the Town, where existing lines are, in the sole judgment of the Board, within a reasonable distance of the proposed subdivision.
- C. The Board may require the installation of streetlighting in any subdivision where it deems necessary.
- D. Water and sewer mains should be constructed beyond the road and shoulder. Manholes shall not be located on the crown (typically the center line) or in wheel paths.

- E. The subdivider shall install laterals from all utilities in the street right-of-way to 10 feet beyond the street property line of each building lot.
- F. All utility systems shall be placed underground in conformity with the terms and specifications of the utility company involved.
- G. Where underground utilities are to be furnished from a public source, all necessary mains, branch offsets to each lot and fire hydrants shall be installed by the subdivider, as approved by the corporation or municipal department having jurisdiction and to the satisfaction of the governing body and without expense to the Town.

ARTICLE VII
Erosion Control

§ 130-48. Purpose.

The purpose of this article is to control soil erosion and the resulting sedimentation from occurring in subdivision areas by requiring proper provisions for water disposal and the protection of soil surfaces during and after construction in order to promote the public health, safety, convenience and general welfare of the community.

§ 130-49. Subdivider's responsibilities.

The subdivider shall bear the final responsibility for the installation and construction of all required drainage, slope stabilization, soil erosion and sediment control measures and structures according to the provisions of these regulations.

§ 130-50. Standards.

The following standards shall be observed by the subdivider in the design, layout and engineering of the proposed subdivision in both the preliminary layout phase and the final plat phase:

- A. Except where modified herein, the Stormwater Management and Erosion Control Handbook for Urban and Developing Areas In New Hampshire prepared by the New Hampshire Department of Environmental Services, Rockingham County Conservation District, and USDA Soil Conservation Service, latest edition, will be used in design of all control measures.
- B. Stripping of vegetation, regrading or other development shall be done in such a way that will minimize soil erosion first and capture potential sediment second.
- C. Whenever practical, natural vegetation shall be retained, protected and supplemented. Upon final grading, vegetation shall be reestablished, except where to be covered with hard surfaces.
- D. The disturbed area and duration of exposure shall be kept to a minimum. Disturbed areas not worked for two weeks or more shall be stabilized by applying and maintaining

- mulch. Disturbed areas not being worked for six weeks or more shall be stabilized by applying seeding, mulch, and tackifier, and maintaining vegetation.
- E. Upon permanent seeding, slopes steeper than 2.5 horizontal to one vertical shall be stabilized with degradable erosion-control matting designed to last 12 months to 24 months. Upon permanent seeding, an organic tackifier shall be applied to mulch on disturbed slopes between 4:1 and 2.5:1.¹⁵
- F. All disturbed work areas shall be stabilized prior to October 15.
- G. Sediment in the runoff water shall be trapped until the disturbed area is stabilized by the use of sediment basins or other acceptable methods. Drainage channels and earthen basins shall be stabilized with seed and mulch/erosion control fabric, sod, or riprap or other hard surfacing (where allowed) prior to directing flow to them.
- H. The inlet to subsurface infiltration devices shall be plugged until the vegetation is established in the areas tributary to the devices.
- I. The subdivider shall provide a construction sequence on the plans, including the earthwork and flow-diversion sequence as well as the timing for the installation of the erosion control measures.¹⁶

ARTICLE VIII Open Space

§ 130-51. Community open space required.

- A. Where a proposed community park, playground or other open space shown on the Master Plan is located in whole or in part in a proposed subdivision, the Board shall require substantial compliance with such Master Plan.
- B. As a condition of approval of the final plat, the Board shall require that the area shown thereon as open space be offered for dedication or for sale to the Town. The Board shall not require such in excess of 15% of the total area of the subdivision. If the open space area does not front on a road, the Board may require that reasonable access be offered to the Town. Reasonable compensation, confirmed by the Selectmen, will be provided, and the Town will acquire the land within a period of one year from the date of approval of the subdivision plat.
- C. If no such community open space, park or playground is shown on the Town Master Plan within the boundaries of a proposed subdivision, the Board may, where it deems essential, require that the plat show one or more sites of a character, size, shape and location suitable to be used by the future residents of the subdivision as open space or park, in an area not to exceed 15% of the total area of the subdivision. The subdivider may of his own volition exceed the above area requirements. In the case of cluster subdivision or planned unit development, open space shall not be less in area than as

15. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

16. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

provided in Chapter 190, Zoning, of the Conway Code. Such areas of open space, whether privately or publicly owned, shall have a sufficient legal restriction recorded in the Town land records to assure permanence of use as open space. Open space land in private ownership shall be deeded in such a way that will assure operation or maintenance of the land in an orderly manner suitable for the purpose intended. In making such a request, the Planning Board shall consider the impact on the existing community recreational facilities given the number and type of households in the proposed subdivision, the distance to existing recreational facilities and the suitability of the land for open space.

§ 130-52. Use of open space.

There shall be no depositing, dumping or storage of waste or other natural or man-made material, supplies or equipment on any subdivision land designated as open space. No work, removing or filling shall be done, nor shall the existing natural characteristics of open space land be altered from the original condition until the subdivider's plans for recreation development of said open space have been reviewed and approved by the Board as part of the final plat submission. On land to be used as active recreation open space, undesirable growth and debris shall be removed. Wooded and brook areas shall be left natural; active recreation open spaces shall be graded properly to dispose of surface water and shall be seeded with lawn grass.

**ARTICLE IX
Administration**

§ 130-53. Review of plats by other officials.

Before approval of the final plat is given, the Planning Board may require that the applicant obtain written statements that the proposed subdivision plat is satisfactory to Town officials as follows:

- A. The Board of Selectmen and/or precinct commissioners or their agent(s) as to the relationship of the proposed water and drainage facilities to the water and drainage lines in existing public ways.
- B. The Selectmen or their agent as to the design of the street system, location of easements and design of the water and drainage systems, including appurtenances.
- C. The Chief of the Fire Department as to the location and spacing of hydrants, where they are provided.
- D. The Chief of the Police Department as to vehicular and pedestrian traffic safety and access for emergency vehicles.

§ 130-54. Performance and inspection of work.

- A. All work necessary for the construction and required improvements shall conform to the requirements of these regulations. Such work shall be performed in a good and

workmanlike manner and shall be free from faults and defects. All materials incorporated in such construction shall conform to the requirements of these regulations and shall be of good quality. Any work or materials not conforming to the foregoing standards may be considered defective and rejected by the Engineer. All work and materials rejected by the Engineer as defective shall be removed and corrected by the subdivider.

- B. The Engineer will be the Town's representative during the construction of required improvements. He shall at all times have access to the site when the work is in preparation and progress. He will make periodic visits to the site to familiarize himself generally with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the requirements of these regulations. The subdivider shall provide the Engineer in advance with a schedule of work to be performed outside of the Engineer's normal office hours and give the Engineer timely notice of the completion of each major stage in the construction of any required improvement so that the Engineer may inspect the work completed prior to the covering thereof, and the Engineer shall make all such inspections with reasonable promptness so as to cause no delay in the work. In particular, as described in Article X, the subdivider shall, in the case of the streets, give timely notice to the Engineer of the completion of subgrades, drainage base course and base and final surfacing.
- C. The subdivider shall give the Engineer notice when any required improvement is completed and ready for final inspection. The Engineer will promptly make such inspection and, when he finds that the particular improvement has been fully completed in accordance with the requirements of these regulations, he shall approve the same in writing. Such approval, in the case of a street, shall not constitute the legal acceptance of the street by the Town nor shall it modify in any way the requirements of law for the acceptance of streets by the Town.
- D. The subdivider shall promptly remedy any defects in any required improvement due to faulty workmanship or materials which appear within a period of one year after approval thereof by the Engineer.
- E. Notwithstanding the on-site observations and inspections of the Engineer and any directions given by him, the subdivider shall be and remain fully responsible for the performance of the construction work in accordance with the requirements of these regulations, and the Engineer shall have no responsibility for the failure of the subdivider to carry out the work as required herein.

§ 130-55. Interpretation of provisions.

In the matters of interpretation of these regulations, the opinion of the Planning Board shall prevail.

§ 130-56. Other street and utility acceptance regulations.

Nothing herein is intended to modify the requirements of law with reference to the acceptance of street and/or utilities by the Town. Nothing herein is intended to modify or control the construction, reconstruction or extension of streets and/or utilities by the Town or state.

§ 130-57. More stringent provisions to prevail.

Where these regulations are in conflict with other local ordinances, the more stringent shall apply.

§ 130-58. Enforcement.

These regulations shall be enforced by the Board or its duly authorized representatives.

§ 130-59. Compliance required; violations and penalties.¹⁷

No subdivision of land shall be made and no land in any subdivision shall be transferred, sold or offered for sale until a final plat prepared in accordance with the requirements of these regulations has been approved by the Planning Board. As provided in RSA 676:16, any owner or agent of the owner of any land located within a subdivision who transfers or sells any land before a plan of the subdivision has been approved by the Planning Board and recorded or filed in the Registry of Deeds shall forfeit and pay a penalty of \$1,000 for each lot or parcel transferred or sold, and the description of metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the transaction from such penalties. The Town of Conway, New Hampshire, may enjoin such transfer or sale and may recover the penalty by civil action. In any such action, the prevailing party may recover reasonable court costs and attorneys' fees as the same may be ordered by the court.

§ 130-60. Public utility applications.

Pursuant to RSA 674:30, on application of a public utility company, the Planning Board may waive any requirements in its ordinances, including but not limited to subdivision and site plan regulations and the zoning ordinances of the Town, to permit the construction, maintenance and operation of an unoccupied structure which is less than 200 square feet in surface area necessary for the furnishing of utility service, so long as the Board shall make findings based on evidence presented to it in each specific case that:

- A. The utility service provided by a public utility company and the proposed unoccupied structure of said company is for the public health, safety and general welfare of the Town.
- B. The siting options of the public utility company are reasonably limited due to the need to physically integrate the proposed structure as a component of the public utility's transmission or distribution apparatus.
- C. The construction, maintenance and use of said unoccupied utility structure would not adversely affect the character of the area or create a hazard to the public.
- D. The structure shall be adequately screened to reasonably limit sound and view of the unoccupied structure from abutters and/or public ways.

¹⁷ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- E. Notices for public hearings shall be given and held as otherwise may be required or permitted pursuant to RSA 674:30.

§ 130-61. Waivers.

The Board may grant waivers of any design requirement of the subdivision regulations in accordance with the following:

- A. The applicant shall provide a written request for waiver, on a form provided by the Town.
- B. In evaluating a request for waiver, the Board shall not grant the waiver unless it finds, based upon evidence presented to it, that:
- (1) Granting of the waiver shall not be detrimental to the public health, safety or general welfare;
 - (2) Granting of the waiver shall not, in the opinion of the Board, be injurious to other parties;
 - (3) Granting of the waiver shall not have the effect of nullifying the intent and purpose of these regulations; and
 - (4) Strict compliance with the regulations would cause a hardship to the applicant solely because of the unique physical characteristics of the site; or
 - (5) Alternative design standards which are independently and scientifically derived are provided to the Board at least one week prior to the public hearing, and, in the Board's opinion, the alternative standard would better accomplish the intent of these regulations for this specific case; or
 - (6) The Board determines that granting the waiver would result in substantial public benefit, and would not constitute a nuisance or hazard nor be detrimental to other properties in the neighborhood.
- C. A waiver request shall be considered only at or after a noticed public hearing by the Planning Board on the subject application is held and the waiver request is presented or discussed so that abutters have an opportunity to be made aware of all waiver requests.

§ 130-62. Amendment of chapter.

These regulations may be amended by the Planning Board but only following a public hearing on the proposed changes. The Chairman or Secretary of the Planning Board shall transmit a record of any changes so authorized to the Registry of Deeds of Carroll County.

§ 130-63. Appeals.

Any person aggrieved by any decision of the Planning Board concerning a plat or subdivision may present to the Superior Court a petition, duly verified, setting forth that such decision is

illegal in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the Court within 30 days after the filing of the decision in the office of the Planning Board.

ARTICLE X Road Standards

§ 130-64. Authority; intent.

In accordance with RSA Ch. 231, as amended, the Planning Board shall approve designs and Selectmen shall enforce the following road specifications. The intent of these standards is to provide all citizens of Conway with safe roads requiring a minimal amount of maintenance, while improving the circulation patterns of the Town.

§ 130-65. Enforcement and approval authority.

The Board of Selectmen shall enforce this article, with the lone exception being the acceptance of private roads as Town roads, which shall be done by Town Meeting vote. (See § 130-67E, Street acceptance.) The Planning Board shall approve all new road designs for new projects.

§ 130-66. Street standards.

A. Construction of streets.

- (1) Right-of-way width. The minimum ROW width shall be 60 feet for rural areas and 66 feet for urban areas. Greater width may be required if, in the opinion of the Planning Board, it is needed to provide adequate room for the proposed street, sidewalks if required, street utilities, drainage, grading and snow storage.
- (2) Clearing and grubbing. The entire limits of the road bed shall be cleared of all trees, stumps, roots, boulders and like materials. In addition, all topsoil and unsuitable materials must be removed from the limits of the road bed. In no case shall the limit of clearing and grubbing extend less than 10 feet from the road shoulder.
- (3) Geotextile placement. Except where both the native soil and embankment material contain less than 12% fines (#200 sieve or finer), a woven geotextile shall be placed at subgrade. Where the embankment material contains less than 12% fines, the geotextile shall be positioned at the base of the embankment. The geotextile shall be equivalent to, or stronger than, Mirafi 500X.
- (4) Embankment material. In areas of fill, unsuitable material or in the presence of water, the construction of an embankment will be required to bring the level of the street up to that which is needed to place the aggregate subbase. The embankment shall be brought to subgrade in horizontal lifts with common material which is suitable for road construction as approved by the Town. Testing of the materials shall be done at the applicant's expense.

- (5) Aggregate base and subbase materials. The aggregate subbase course shall consist of 12 inches of gravel, NHDOT Item 304.2, and the aggregate base shall consist of six inches of crushed gravel, NHDOT Item 304.3. Testing of the materials' gradation (AASHTO T27 and T11) and proctor (AASHTO T99) shall be done at the applicant's expense. See Detail 1.¹⁸ These are minimum standards. The amount of aggregate base and subbase materials shall be increased in areas of poor soils and for roads carrying commercial/industrial traffic. A geotechnical investigation may be required.
- (6) Compaction. Compaction is required for the embankment, aggregate base and subbase materials. It shall be performed by using vibrating rollers and water in lifts of no greater than 12 inches. Compaction shall be performed until the required density is achieved. Density shall be determined by AASHTO T238 method and shall not be less than 95% of the maximum density determined in accordance with AASHTO T99.
- (7) Pavement.
- (a) Binder course: a two-inch to three-inch lift of pavement (see Details 1A and 1B¹⁹) meeting New Hampshire Standard Specifications for Road and Bridge Construction, Division 400, Section 401.
- (b) Wearing course. A one-inch to 1 1/2-inch lift of pavement (see Details 1A and 1B²⁰) meeting New Hampshire Standard Specifications for Road and Bridge Construction, Division 400, Section 401.
- (c) Pavement shall not be installed when the outside air temperature is below 40° F., nor when the road base temperature is below 40° F. The temperature of pavement mix relative to road base temperature when spread shall be in accordance with Table 3.²¹ Pavement shall not fall below 185° F. prior to the completion of rolling. Pavement shall not be installed when the subgrade is frozen or the grades are incorrect. On newly constructed roads, the base course and the wearing course shall not be installed in the same season.
- (8) Shoulders: in accordance with Detail 1.²² Shoulders shall be installed on both sides of the street and shall consist of modified crushed gravel, NHDOT Item 304.33. When curbs are installed, this section shall not apply.
- (9) Loaming and seeding.
- (a) All remaining disturbed areas within the right-of-way shall have four inches of loam, which is free of stumps, roots and other unsuitable material, installed.

18. Editor's Note: The details are included as an attachment to this chapter.

19. Editor's Note: The details are included as an attachment to this chapter.

20. Editor's Note: The details are included as an attachment to this chapter.

21. Editor's Note: Table 3 is included as an attachment to this chapter.

22. Editor's Note: The details are included as an attachment to this chapter.

- (b) All remaining disturbed areas within the right-of-way shall be fertilized and seeded in accordance with Section 646 of the NHDOT specifications, except that all mulch shall be anchored with a tackifier at a minimum.
 - (c) The seeding of slopes and ditches shall require the use of erosion-control matting.
- (10) Cross-sectional grading of slopes.
- (a) Cross-sectional elements shall be in accordance with Details 1A and 1B.²³

B. Drainage.

- (1) Adequate disposal of surface water shall be provided. Provisions must be made for maintaining natural watercourses and, unless a drainage easement is provided, limiting the peak runoff from new or improved roads to the existing conditions during both the two- and twenty-five-year rainfall events. Road cross-culverts and water flow in the curblin shall be designed for at least the twenty-five-year event and driveway culverts for at least the ten-year event. Water flow along the curblin shall not extend more than four feet into the travel lane. Drainage calculations must be submitted to the Planning Board for its approval. For comparison of existing conditions and proposed conditions, or where hydrograph routing is necessary, the SCS TR-20 methods shall be utilized. For storm drainage system sizing where the drainage area is less than 200 acres, the Rational Method or SCS methods may be utilized. For storm drainage system sizing where the drainage areas are greater than 200 acres, the Potters Small Watershed Analysis, SCS methods, or other methods as approved by the Planning Board or its representative may be used.
- (2) All road culverts shall be at least 15 inches in diameter, and all driveway culverts shall be at least 12 inches in diameter. Culverts shall be corrugated metal pipe (complying with AASHTO M36, Type III) or reinforced concrete pipe (Class III or higher complying with NHDOT Section 603), or HDPE plastic pipe (by Hancor or ADS complying with AASHTO M294, Type S). No aluminum shall be allowed. See Detail 6A.²⁴
- (3) When pipe systems are included in a street design, plan/profile sheets shall be required for the systems showing proper sizing, slopes, inverts, etc.
- (4) When roadside drainage ditches are used, they shall be in accordance with Details 1A and 1B.²⁵ Riprap-lined roadside ditches are allowed only behind curbed roads. In such cases, the riprap shall extend no closer than four feet to the back of the curb. Cross-culverts and/or closed storm drain systems shall be used to limit the flow in ditches to 10 cubic feet per second (cfs) and velocity to three feet per second (fps) in grass-lined ditches. In no case shall the ditch length exceed 600

23. Editor's Note: The details are included as an attachment to this chapter.

24. Editor's Note: The details are included as an attachment to this chapter.

25. Editor's Note: The details are included as an attachment to this chapter.

feet. Refer to Subsection C(2) for other conditions that require the use of curbing, catch basins and closed storm drains. Permanent turf reinforcement mats (TRMs) are not allowed in roadside ditches.

- (5) The street crown, center to shoulder, shall be 1/4 inch per foot. Superelevation shall be required where the ADT is greater than 400. When designing a superelevated street, the superelevation rate shall not exceed 3/4 inch per foot and must be accompanied by engineering calculations.
- (6) Headwalls with properly designed cutoffs shall be required at the inlet end of all culverts. See Detail 2.²⁶ For driveway culverts, prefabricated end sections with toe plates may be used in lieu of headwalls.
- (7) Underdrains shall be used under ditches where the seasonal high water table is within three feet of the subgrade elevation. Where the road runs nearly perpendicular to the existing contours, additional underdrains shall be installed laterally across the road and spaced no greater than 100 feet apart. Where the road runs nearly diagonal to the contours, underdrains shall be installed laterally across the road and spaced no greater than 200 feet apart. Underdrain shall be installed in accordance with Detail 3.²⁷ Storm drain pipes may be perforated in lieu of providing separate underdrain pipes. Perforations in storm- drain pipes shall be positioned at 10:00 and 2:00, and the depth of flow in the pipe shall be kept below the perforations.
- (8) Infiltration devices shall require: pretreatment of the stormwater before infiltration; test pits demonstrating that the bottom of the devices are at least three feet above the seasonal high groundwater table; the bottom of the entire infiltration surface to be at least three feet below finished grade; and the infiltration area to be located outside the travel way and shoulder. In areas of SCS Adams soils, confirmed by test pitting, the exfiltration velocity may be assumed to be 0.0022 cfs/sf. In all other areas, the exfiltration velocity shall be determined by field permeability testing or established correlations to grain-size distributions, with a 1.5 factor of safety applied.
- (9) Drainage easements shall be provided where the peak rate of runoff will increase and/or where the runoff flow type changes to concentrated flow. Drainage easements shall extend from point of increased flow and/or the point the flow becomes concentrated to the point the runoff reaches an NHDES jurisdictional wetland/channel. Drainage easements are not required within the road right-of-way.
- (10) For subdivisions, the assumed impervious area per building lot shall not be less than 5,000 square feet and the assumed cleared area per building lot shall not be less than 10,000 square feet. The assumed impervious and cleared areas shall be stated on the subdivision plan with a note specifying that if the actual impervious and/or cleared areas exceed the assumptions, the lot owner shall revise the drainage analysis accordingly and provide measures to limit the flow to those

26. Editor's Note: The details are included as an attachment to this chapter.

27. Editor's Note: The details are included as an attachment to this chapter.

assumed in the drainage design. Note: impervious area includes both paved and compacted gravel surfaces.

C. Street design.

- (1) Pavement width. Pavement widths shall be in accordance with Details 1A and 1B.²⁸ The minimum pavement width is 18 feet. This width is only applicable to dead-end roads with an ADT below 160 which do not have any truck traffic. If a road does not meet these conditions, then the minimum width shall be 20 feet. When curbing is required on rural roads, such as at intersections or steeper grades, then the pavement width shall be increased by four feet. Roads in areas zoned commercial or industrial shall vary based on accepted methods of design, number of lanes, the need for bike lanes, etc. In general, the minimum width for these roads shall be 24 feet.
- (2) Curbing.
 - (a) Use. Curbing is required in all business districts, along any commercial driveway, all intersections with arterial or collector roads, and where any road or ditch grade exceeds 8% or 6% when the developed length exceeds 250 feet. Use of curbing requires basins and culvert for drainage.
 - (b) Type. Granite curbing shall be utilized when curbing is installed. Bituminous or concrete curbing shall not be permitted as it is a substandard material for this use. If sidewalks are present, vertical curbing is required. If there are no sidewalks, then either vertical or sloped curbing is acceptable. (See Detail 7.²⁹).
- (3) Sidewalks.
 - (a) As a matter of pedestrian safety, sidewalks are required in the vicinity of schools, and in the Village or Business District. Sidewalks are to be at least five feet wide and shall be set back 10 feet from the curb face or road shoulder. Sidewalks shall be concrete poured at four inches' thickness with a 3,000 PSI mix and 5% to 7% air entrainment (NHDOT Specification Section 608 Class B). Concrete shall be poured at no more than four inches' slump. Acceleration admixtures shall not be used. The concrete shall be reinforced with 3/4-inch fibrillated polypropylene fibers at 1.50 #/cy in accordance with the manufacturer's instructions. A seven-foot-wide, one-foot (twelve-inch) deep subbase of 1.5-inch gravel (NHDOT Item 304.3) shall be used. Compaction of the subbase shall be in accordance with Subsection A(5). Expansion joints shall be installed in accordance with NHDOT standards at four-inch spacing. Sidewalks shall be treated with Silane-Siloxane or equal. Sidewalks shall have a broom finish.

28. Editor's Note: The details are included as an attachment to this chapter.

29. Editor's Note: The details are included as an attachment to this chapter.

- (b) Where sidewalks cross driveways they shall ramp down to the level of the driveway and comply with the ADA guidelines. Sidewalks greater than five feet in width may be required in these areas.
- (4) Sight distance, minimum. All sight distances shall be computed for both vertical and horizontal curves.
 - (a) Level terrain: a minimum sight distance of 200 feet is required.
 - (b) Rolling and hilly terrains: a minimum sight distance of 150 feet is required.
- (5) Dead-end length and units, maximum. A dead-end street shall not serve more than 35 dwelling units.
- (6) Cul-de-sac turnaround radius, minimum. See Detail 4.³⁰
- (7) Off-street parking. The pavement widths as detailed earlier are predicated on there being no on-street parking. As such, off-street parking of two spaces per lot or unit shall be required.
- (8) Driveways. Driveways shall be located and their entrances designed as a part of street design. See Detail 5.³¹ The minimum standards which must be met are as follows:
 - (a) Drainage analysis, design, full paving and curbing may be required all the way to the building site if the driveway is likely to divert runoff to the roadside or cause flow into the street.
 - (b) Minimum width of 10 feet for residential, 14 feet for one-way nonresidential, and 20 feet for two-way nonresidential; maximum width of 18 feet for residential and 36 feet for nonresidential.
 - (c) Ninety-degree +/- 15° intersection with street.
 - (d) Intersection flares: At a minimum, single-family driveways shall provide a fifteen-foot curb radius or a straight flare five feet wide by 10 feet long.
 - (e) Driveway grades shall comply with Detail 5.³²
 - (f) Commercial driveways require curbing and a minimum radius of 25 feet.
 - (g) Unpaved driveways will require paved aprons extending at least to the ditch line but not less than 15 feet for residential driveways and 25 feet for commercial driveways.
 - (h) No more than one curb cut is allowed for residential lots. (See also § 110-20.)

30. Editor's Note: The details are included as an attachment to this chapter.

31. Editor's Note: The details are included as an attachment to this chapter.

32. Editor's Note: The details are included as an attachment to this chapter.

- (i) See also Table 2 for driveway site-distance requirements and location relative to intersections and other driveways and Detail 5 for other requirements.³³
 - (j) In accordance with RSA 236:13 and the legislative authority cited in § 130-1 of this chapter, prior to any modification of an existing driveway or construction of a new driveway that deviates from the design shown on an approved subdivision plan or site plan or construction of a new driveway that is not adequately represented on an approved subdivision plan or site plan, the property owner must first secure a driveway permit. The Planning Board hereby delegates to the Board of Selectmen the authority to administer and issue such permits in accordance with this chapter. This includes the issuance of such permits and the adoption of the forms and administrative policies to administer same.
 - (k) In accordance with the legislative authority cited in § 130-1 of this chapter, prior to any work, other than that represented in a driveway permit issued pursuant to Subsection C(8)(j), work performed by contractors, developers, utilities or others doing work on Town properties or Town roads must first secure a construction permit. The Planning Board hereby delegates to the Board of Selectmen the authority to administer and issue such permits in accordance with this chapter. This includes the issuance of such permits and the adoption of the forms and administrative policies to administer same.
- (9) Utilities. All buried utilities shall be located beyond the ditch line. All above-grade utility facilities such as transformers, pedestals, and sector cabinets shall be located at the right-of-way line.
- (10) Water and sewer utilities. See § 130-47. Hydrants shall be located behind the ditch line but not less than 10 feet from the travel way.

§ 130-67. Miscellaneous standards.

A. Highway bounds and signs.

- (1) Granite highway bounds, at least 24 inches in length and four inches square, shall be set at all points of street intersections, at all points of change of direction (PC/PT), at points along tangents no more than 800 feet and as per proper surveying standards. Discs shall be set in the top of the bounds and shall be stamped with numbers corresponding to those indicated on the metes-and-bounds plan.
- (2) All projects shall conform to the Manual on Uniform Traffic Control Devices, latest edition.

B. Consultants. The Planning Board or Board of Selectmen may hire consultants to review plans, perform inspections and/or perform other duties related to the project as it deems appropriate. All costs of said consultants shall be paid by the applicant.

33. Editor's Note: Table 2 and the details are included as attachments to this chapter.

C. Inspections.

- (1) Initial inspection shall take place upon submission of proposed road plans. It is the responsibility of the owner(s) to have roads laid out with center-line grade stakes at every half station. The Board of Selectmen will notify the owner(s) of the date of inspection.
- (2) Prior to the start of the work, a preconstruction meeting will be held to review procedures, identify responsibilities and discuss Town requirements. The contractor and the contractor's superintendent shall attend the preconstruction meeting. The following items shall be submitted at or before the preconstruction meeting:
 - (a) Two copies of the approved plans;
 - (b) USEPA NPDES notice of intent (NOI) and stormwater pollution prevention plan (SWPPP);
 - (c) Surety of work;
 - (d) Testing and inspection fees; and
 - (e) Project schedule.
- (3) The Town and the Town's representatives shall have full access to the site when the work is in preparation, during construction and after completion. They may observe the work on a periodic or full-time basis. The Town must be present during the installation of utilities, drainage pipes, geotextile and pavement and must observe the work at other specified stages.
- (4) The applicant shall notify the Office of the Town Engineer two business days prior to the required inspections. Upon notification by the applicant, the Town Engineer or designee shall perform the following inspections within 48 hours:
 - (a) Cleared and grubbed: roadway is clear and grubbed down to native soil, free of loam or other unsuitable materials prior to the placement of any fill.
 - (b) Drainage: installation of pipe, culvert, basins, etc.
 - (c) Embankment: placing and compacting the embankment material.
 - (d) Geotextile: Geotextile is laid.
 - (e) Aggregate subbase: Aggregate subbase is installed and compacted.
 - (f) Aggregate base: Aggregate base is installed and compacted.
 - (g) Pavement installation: The applicant must notify the Town of the date(s) on which pavement will be installed. The Town must give approval prior to the placement of pavement. The Town must be present during the installation of pavement.

- (h) Utilities: installation of conduits, cables, pipe, and warning tape for electric, water, sewage, etc. The Town must be present during the installation of utilities.
 - (i) As-built drawings shall be maintained on a daily basis; weekly inspections will be conducted.
 - (j) Final inspection. After the submission of as-built drawings and prior to the release of the surety the Town shall conduct a final inspection. All items from the Town's punch list shall be addressed prior to the acceptance of the work.
- (5) Failure to notify the Town or its designated representative of said inspection points shall give the Town the right to reject the work and require reconstruction.
 - (6) The Town and/or its designated representative shall at all times have access to the site for the purpose of performing inspections.
 - (7) The cost of inspection and testing shall be paid by the applicant(s).
- D. Surety of work.
- (1) Proper surety in the form of cash or bonds must be submitted to the Town to insure the completion of work. No work shall start on the property until proper surety is in place. The surety amount shall be 115% of the current estimated cost.
 - (2) A utilized cost estimate shall be submitted for approval prior to the surety being accepted. The cost estimate shall include the costs of inspection and testing. Surety may be drawn down no more often than monthly. In no case shall the surety be drawn below 10% until the completed road has successfully stood for one year.
 - (3) The surety may be used by the Town to repair work which has failed or was not performed in accordance with the plans and specifications, to restore the site should the project default, to cover the cost of testing and inspections and to cover legal or other fees the Town may incur during the collection process.
- E. Street acceptance. No street will be accepted by the Town until such time as all improvements have been carried out as shown on the final plat, in accordance with the requirements of these regulations and subject to any conditions established by the Planning Board at the time of final plat approval. In addition, the following conditions shall be met prior to the Selectmen recommending a street for acceptance:
- (1) At least 85% of all buildings to be built on lots fronting on the road shall be fully constructed and ready for occupancy.
 - (2) The valuation along said street shall be a minimum of \$2,000,000 per mile.
 - (3) Street construction shall have been complete for a minimum of 18 months.
 - (4) The standards of this chapter shall have been met.

- (5) At least 1,000 feet of street shall be proposed for acceptance except when the proposal is for a generally straight extension of an existing Town street.
- (6) A fee-simple deed shall be submitted prior to acceptance. A metes-and-bounds description, prepared by a New Hampshire licensed surveyor, shall be submitted to the Town. Accompanying the legal description shall be a certification by the owner's surveyor that the right-of-way bounds have been set at the locations shown on the street design plan.
- (7) No road will be considered unless accessible via a Town or state roadway.
- (8) All petitions for road layout must be made before October 1 of each year. Petitions shall be signed by at least 25 Conway registered voters.
- (9) When there are no records indicating that the Town witnessed the road construction (i.e., inspection reports, sieve analysis, compaction tests, etc.), road corings to investigate subgrade shall be performed and paid for by the applicant. Testing will not be done between November 1 and May 1. The following testing shall be performed:
 - (a) Pavement and aggregate testing at one-hundred-foot spacing;
 - (b) Aggregate base density and percent compaction at two-hundred-foot spacing;
 - (c) Aggregate base sieve analysis at four-hundred-foot spacing; subgrade sieve analysis at four-hundred-foot spacing; and
 - (d) Aggregate base proctor tests at eight-hundred-foot spacing (composite from corings).
- (10) Betterment projects shall conform to the provisions of RSA 231:28 through 231:33. All costs of betterment engineering shall be paid for by the applicant. Betterment periods shall be no longer than 10 years.
- (11) Upon acceptance of the road, a maintenance bond shall be provided to reserve funds to repair or reconstruct streets which have become damaged due to latent defects in the street construction. The maintenance bond shall remain in effect until two years after acceptance and the bond value shall generally be \$20 per linear foot of roadway accepted. The bond value is intended to approximately equal 10% of the cost to fully reconstruct the road.

F. Waivers.

- (1) Waivers to any section may be requested. All waiver requests must be submitted in writing. The Planning Board shall not approve waivers unless it shall make findings based upon evidence presented to it in each specific case that:
 - (a) The granting of the waiver will not be detrimental to the public safety, health or welfare or injurious to other properties located nearby.
 - (b) The granting of the waiver shall not permit construction of a lesser quality or create a structure requiring greater maintenance.

- (c) The granting of the waiver shall not have the effect of nullifying the intent and purpose of these regulations.
 - (2) Upon receiving the request, the Planning Board shall evaluate the arguments, review the possible precedents which the decision may set, and shall vote to approve or disapprove the request.
- G. More stringent provisions. In all cases of conflict between this and other Town or state regulations, the stricter regulations shall apply.
- H. Minimum data required on street design plans.
- (1) The applicant shall submit two complete sets of street design plans for the Planning Board's review. The applicant shall also submit two copies of any revisions made to the plans for approval. The plans shall be submitted on twenty-two-inch by thirty-four-inch plan/profile paper and shall be done with a horizontal scale of one inch equals 40 feet and a vertical scale of one inch equals 10 feet.
 - (2) Data requirements:
 - (a) Title showing the name of the subdivision, name of the street and name of the owner, date (day, month, year), revision history, scale and name and seal of an engineer licensed in the State of New Hampshire.
 - (b) Right-of-way lines.
 - (c) Slope and drainage easements.
 - (d) All center-line data (tangent lengths and bearings, curve data and stationing).
 - (e) Edge-of-pavement lines.
 - (f) Cross sections at each half station.
 - (g) Existing grade at each half station (on profile and cross section).
 - (h) Proposed grade at each half station (on profile and cross section).
 - (i) Length of vertical curves and data (on profile).
 - (j) Sight distance of horizontal and vertical curves.
 - (k) Design speed.
 - (l) Type of terrain considered to control design.
 - (m) Average daily traffic (ADT) based on the ITE Trip Generation Manual, 1987.
 - (n) Design year based on 10th year after opening year.
 - (o) Drainage structure location and inverts, station, skew, length, slope and end treatment.

- (p) Benchmarks not more than 500 feet apart.
- (q) Utility locations and details.
- (r) Specific material specification or reference.
- (s) A detailed engineer's opinion of construction cost.
- (t) A notarized letter fixing the legal responsibility for maintenance of the streets.
- (u) A grading plan showing existing and proposed contours at a minimum of two-foot frequency within the right-of-way.
- (v) General notes for inspections (see Subsection C for inspection requirements).
- (w) Driveway layout with the street right-of way and spot elevations at edge of pavement, ditchline/gutter, and right-of-way line.
- (x) Erosion and sediment control plan with project-specific construction sequence.

I. As-builts.

- (1) In order to ensure the proper construction of development streets, as-Built drawings shall be presented to the Selectmen or their designee for their review prior to final draw-down of the surety for the project. These drawings must be maintained on a daily basis and will be inspected weekly.
- (2) Except for those referred to above, the Planning Board does not require as-built subdivision plans, nor will it stamp and sign such plans. The only as-built subdivision plans which the Board will stamp and sign is the plan showing the location of structures on condominium property. Such plans shall:
 - (a) Be certified to be correct and stamped by a New Hampshire licensed land surveyor
 - (b) Be accompanied by certificates of occupancy, if applicable;
 - (c) Clearly identify in the title block exactly what the as-built plan is approving; and
 - (d) Have the following plat note printed on each sheet: "These as-built plans are pursuant to, and without modification of, the original Planning Board approval."
- (3) Submit a metes-and-bounds plan prepared by a New Hampshire licensed land surveyor showing the following items:
 - (a) Platted rights-of-way.
 - (b) Bearing and distances of right-of-way tangents and other property lines.

- (c) Horizontal curve data for the right-of-way, including radius, delta and length.
- (d) Numbered bounds.
- (e) Slope, drainage and other easements and encumbrances.
- (f) Edge of pavement and driveway entrances.
- (g) Other items required by the New Hampshire Code of Administrative Rules, Board of Licensure for Land Surveyors, Rule Lan 503.09.

SUBDIVISION OF LAND

130 Attachment 1

Town of Conway

**Table 1
Street Design Guidelines**

Description	Terrain		
	Level	Rolling	Hilly
Terrain Classification			
Right-of-way (feet)	§ 130-67A(1)		
Pavement width (feet)	§ 130-67C(1)		
Type of curb	§ 130-67C(2)		
Minimum sight distance ¹ (feet)	200	150	150
Maximum grade ²	6%	9%	11%
Minimum cul-de-sac radius	See Detail #4		
Cross-slope	2%	3%	4%
Design speed	25	25	20
Minimum center-line radius (feet)			
4% superelevation	150	150	125
Without superelevation	200	200	150
Minimum tangent between reverse curves (feet)			
4% superelevation	100	100	100
Without superelevation	75	75	50

NOTES:

¹ For sight distance calculations, the height of the driver's eye is considered to be 3.5 feet and the height of object 2.0 feet

² The maximum longitudinal length of grades in excess of 6% shall be 1,500 feet. However, such sections of road shall be separated by a minimum of 400 feet at a grade of 6% or less.

SUBDIVISION OF LAND

130 Attachment 2

Town of Conway

Table 2
Intersection Design Guidelines

Description	Terrain Classification		
	Level	Rolling	Hilly
Approach speed (mph)	25	25	20
Clear sight distances ¹			
Approach	200	200	150
At intersection	IAW SSD for intersection road, but not less than 200 feet		
Vertical alignment - maximum grade			
New roads	3%	3%	4%
Existing roads	6%	6%	8%
Distance (feet) ²	100	100	100
Minimum angle of intersection	90.0 +/- 10.0		
Minimum curb radius (feet)			
Local - Local	25	25	25
Local - Collector	30	30	30
Collector - Collector	35	35	35
Collector - Arterial	40	40	40
Minimum center-line offset from adjacent intersection ³ (feet)			
Local – Local	125	125	125
Local – Collector	150	150	150
Collector - Collector	200	200	200
Minimum tangent length			
Approaching intersection (feet)	50	50	50

NOTES:

¹ For intersection sight distance calculations, the height of the driver's eye is considered to be 3.5 feet and located 10 feet from the edge of the travel way, and the height of object is 3.5 feet.

² Measured from the center line/center-line intersection along both the new side street and the new or existing through street.

Residential driveways will be considered as local roads and commercial driveways as collector roads.

SUBDIVISION OF LAND

130 Attachment 3

Town of Conway

Table 3
Recommended Minimum Placement Temperatures

Base Temperature ¹ (° F.)	Mat Thickness [inches (cm)]					
	1/2 (1)	3/4 (2)	1 (2.5)	1 1/2 (4)	2 (5)	3 (7.5) ²
+40° to 50°	—	—	310	300	285	275
+50° to 60°	—	310	300	295	280	270
+60° to 70°	310	300	290	285	275	265
+70° to 80°	300	290	285	280	270	265
+80° to 90°	290	280	275	270	265	260
+90°	280	275	270	265	260	255
Rolling time (minutes)	4	6	8	12	15	15

NOTES:

¹ Base on which mix is placed [C=0.555 (F-32)].

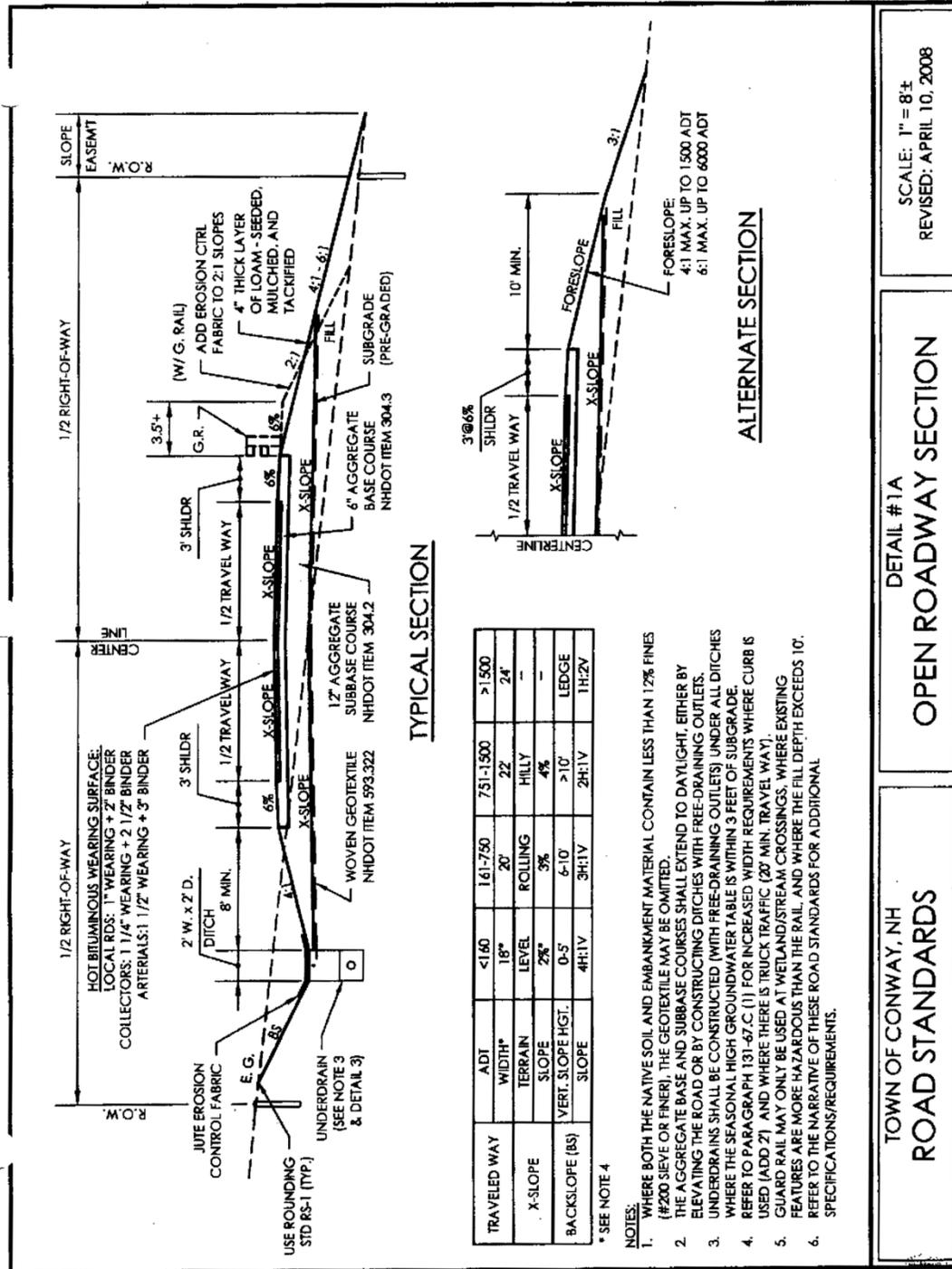
² And greater.

SUBDIVISION OF LAND

130 Attachment 4

Town of Conway

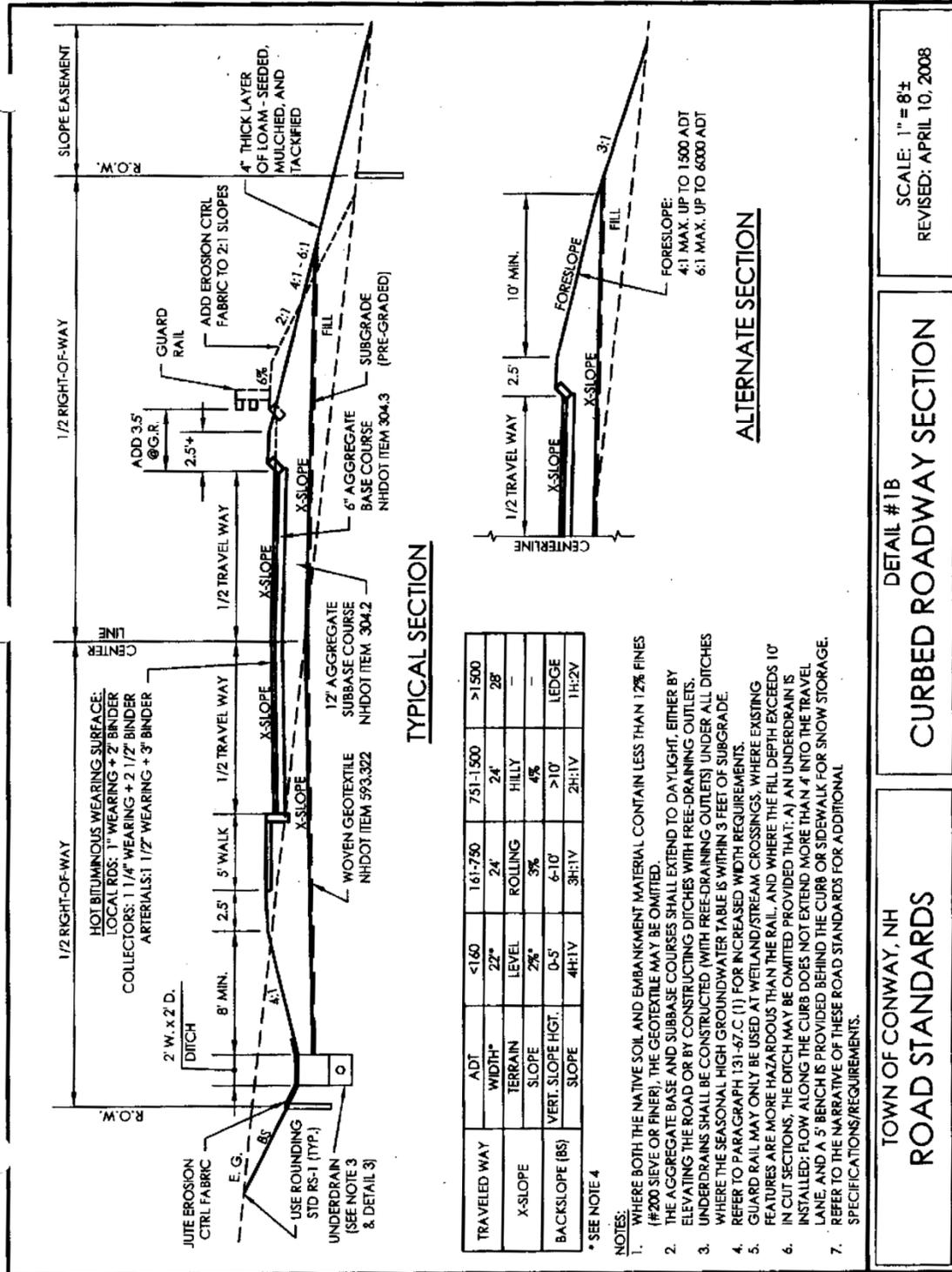
Detail Drawings



SCALE: 1" = 8'
REVISED: APRIL 10, 2008

DETAIL #1A
OPEN ROADWAY SECTION

TOWN OF CONWAY, NH
ROAD STANDARDS

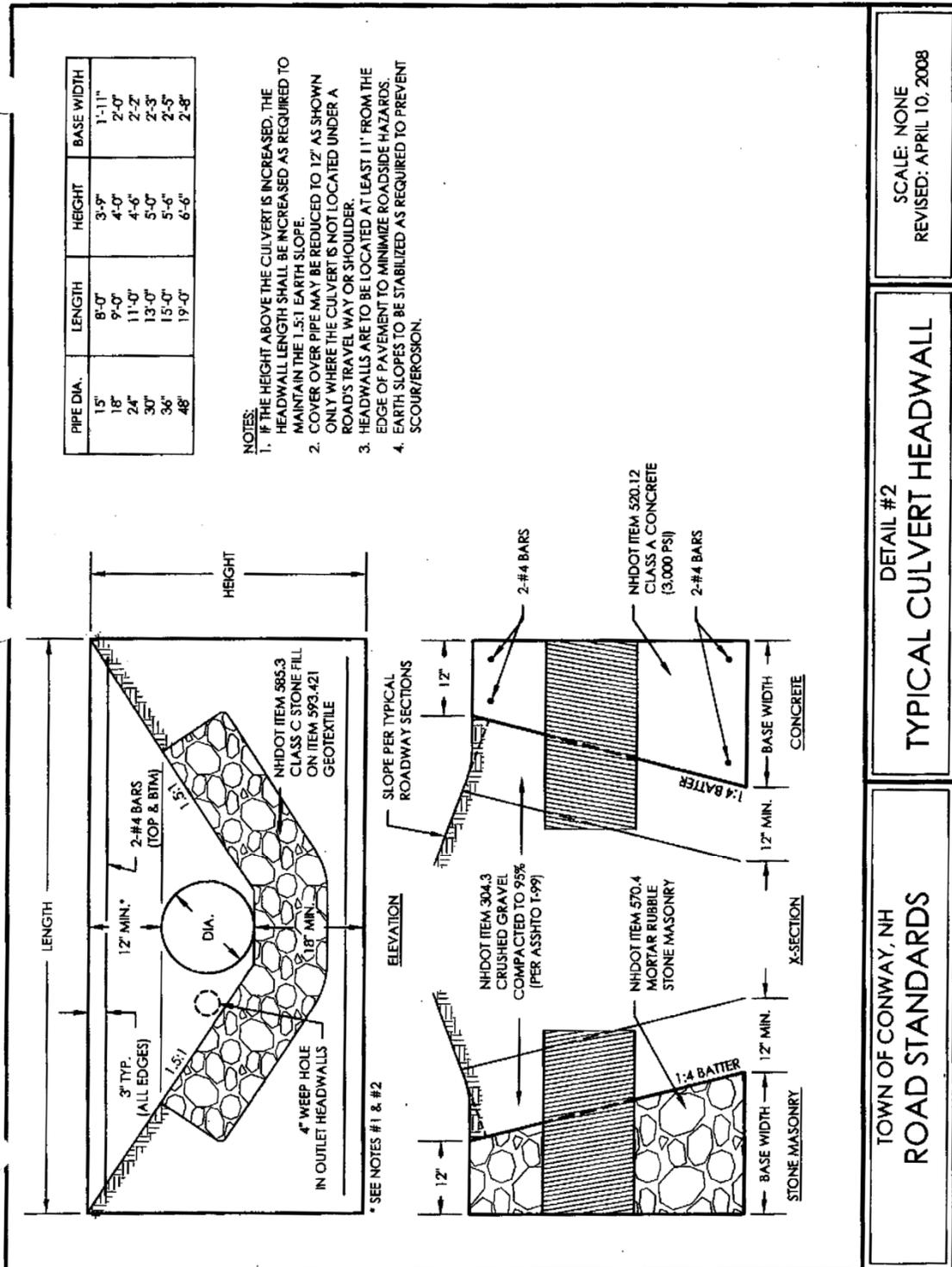


SCALE: 1" = 8'
REVISED: APRIL 10, 2008

DETAIL #1B
CURBED ROADWAY SECTION

TOWN OF CONWAY, NH
ROAD STANDARDS

SUBDIVISION OF LAND

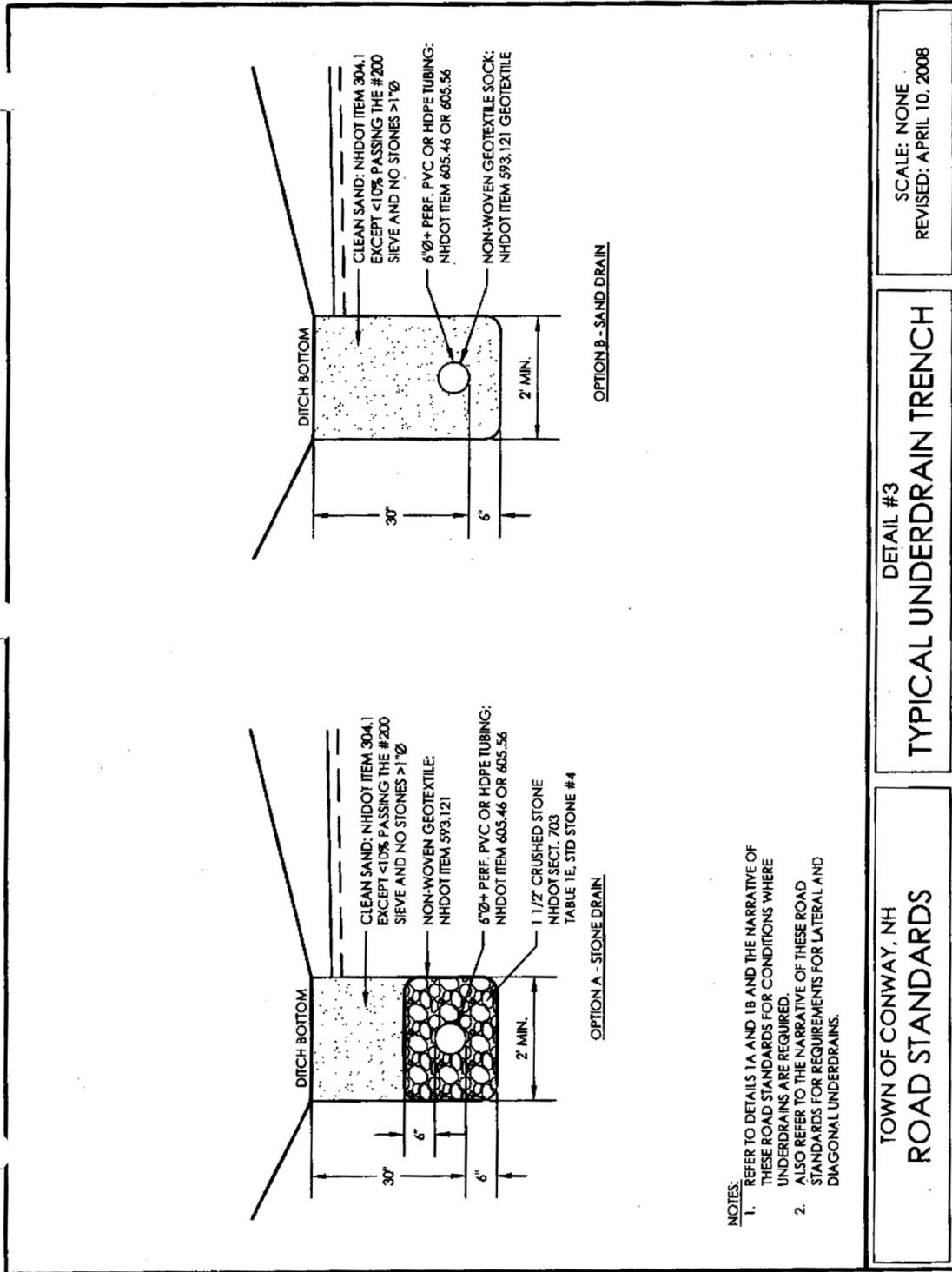


SCALE: NONE
REVISED: APRIL 10, 2008

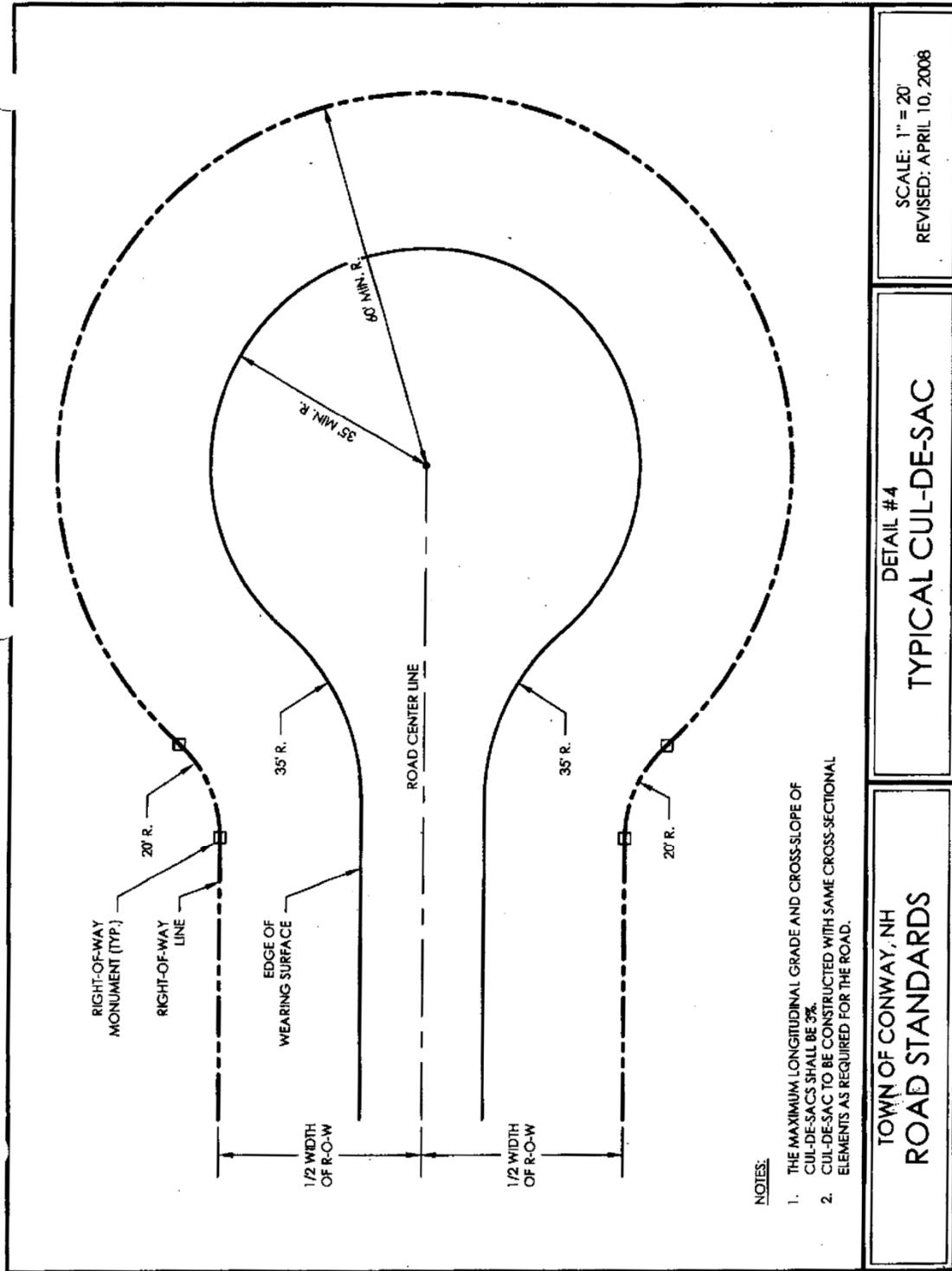
DETAIL #2
TYPICAL CULVERT HEADWALL

TOWN OF CONWAY, NH
ROAD STANDARDS

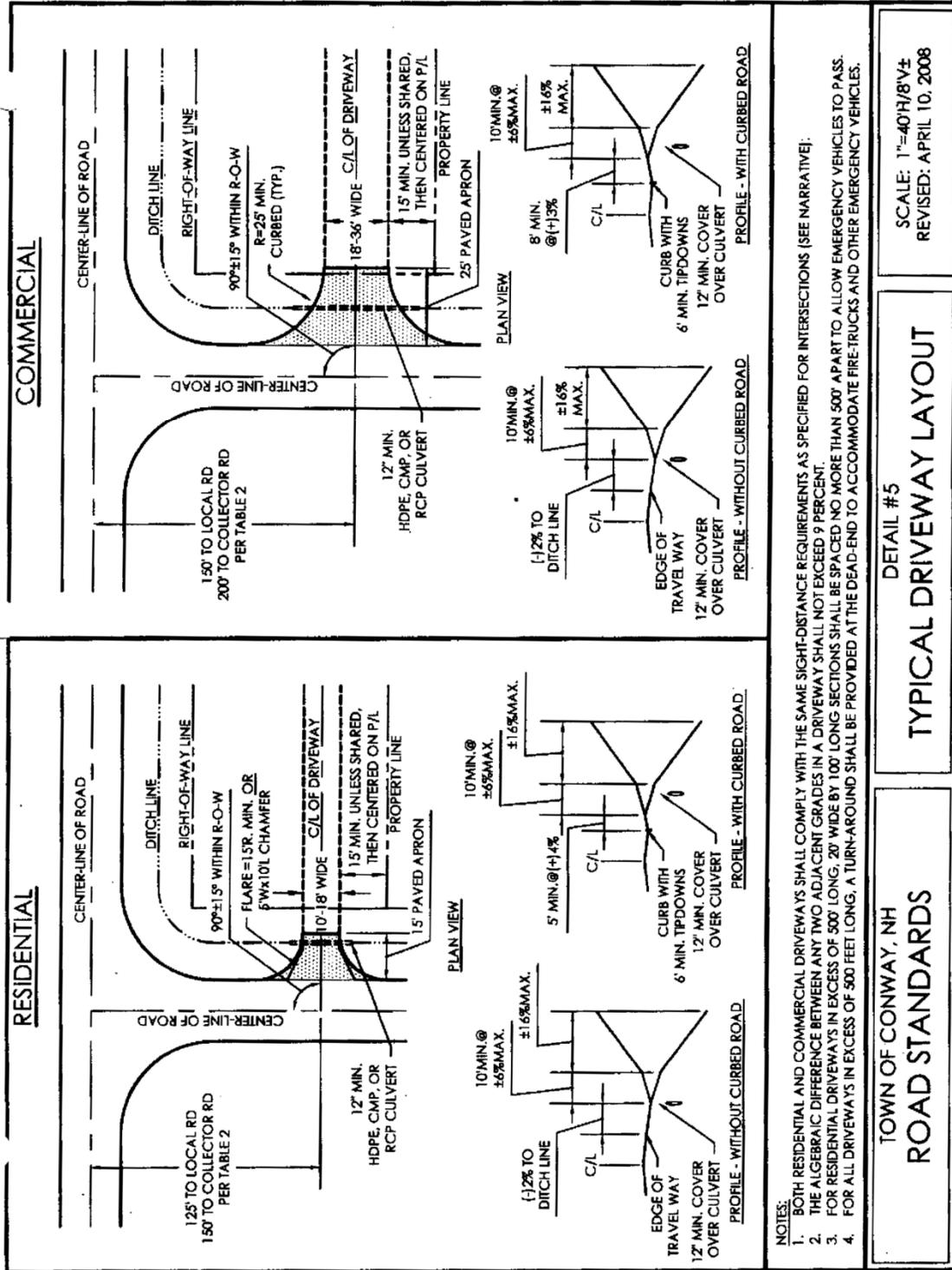
CONWAY CODE



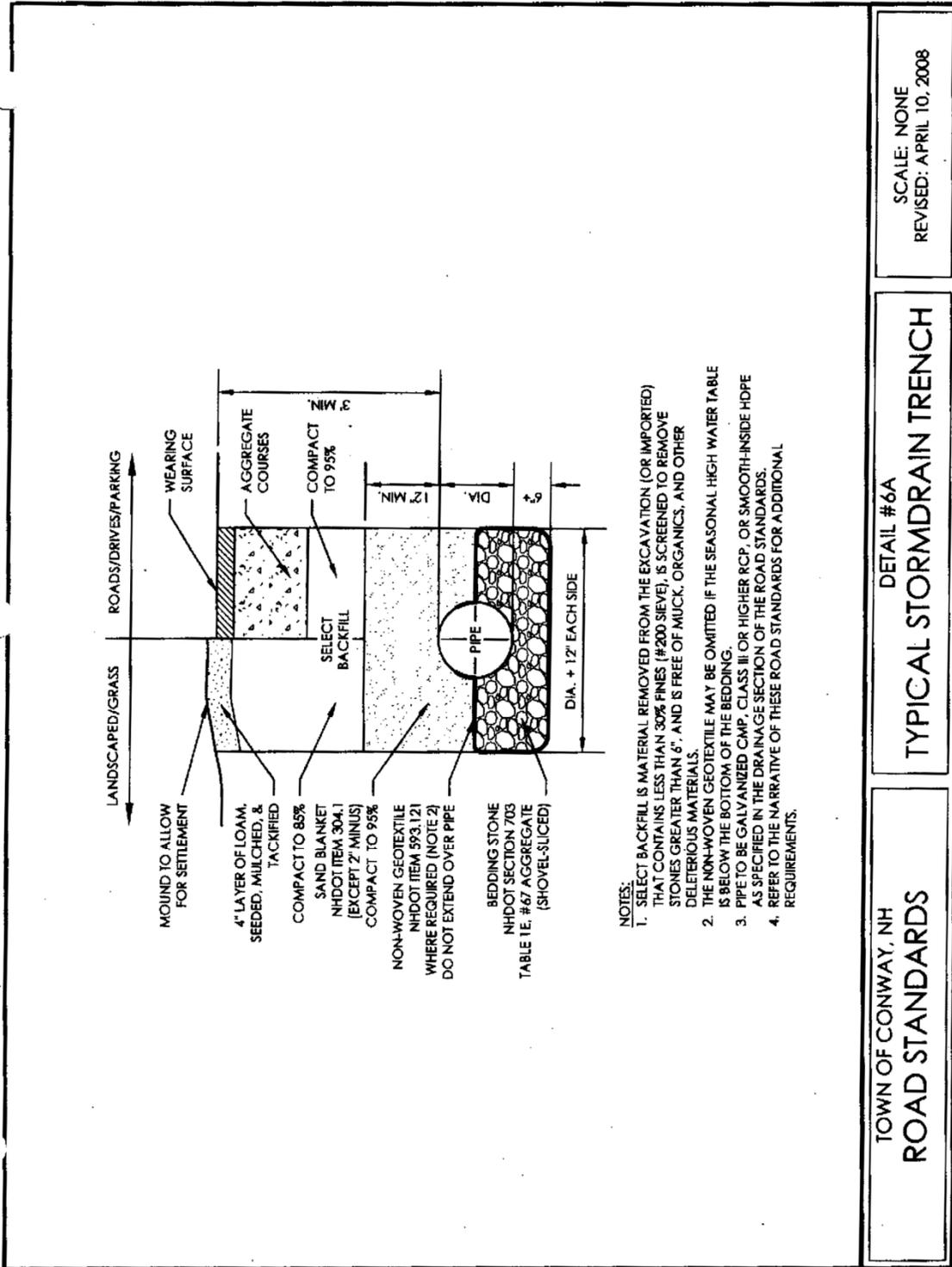
SUBDIVISION OF LAND



CONWAY CODE



SUBDIVISION OF LAND



SCALE: NONE
REVISED: APRIL 10, 2008

DETAIL #6A
TYPICAL STORM DRAIN TRENCH

TOWN OF CONWAY, NH
ROAD STANDARDS

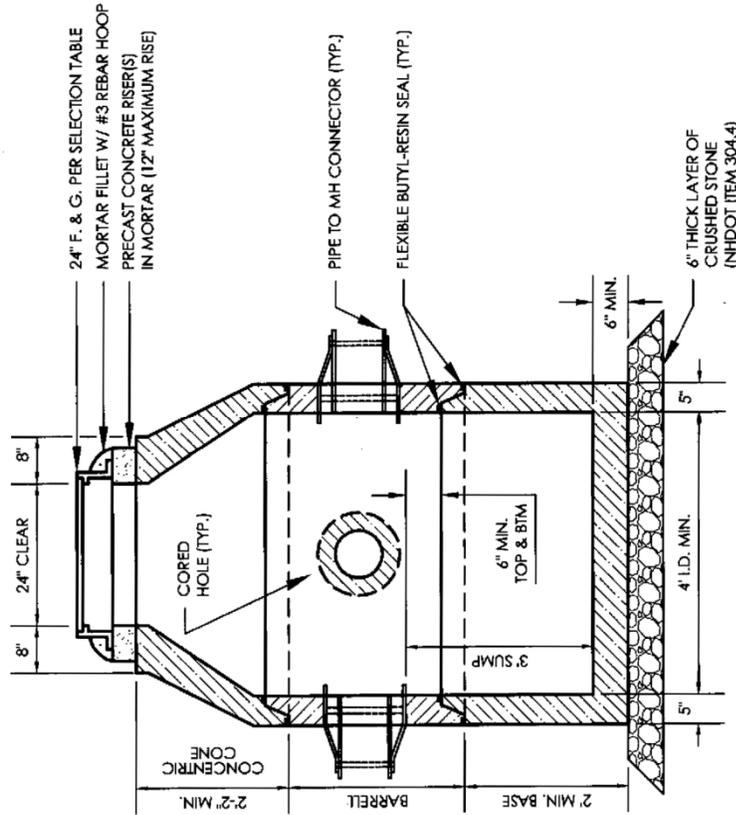
CONWAY CODE

FRAME AND GRATE SELECTION TABLE		
LOCATION	REFERENCE /STYLE	NUMBER OF FLANGES
PAVED/GRAVEL OPEN AREA AT LOW-POINT	NHDOT TYPE B OR NEENAH R-3570 STANDARD GRATE	4
PAVED/GRAVEL AGAINST CURB AT LOW POINT	NHDOT TYPE B OR NEENAH R-3571 STANDARD GRATE	3
PAVED/GRAVEL AGAINST CURB ALONG SLOPE	NEENAH R-3266 VANE GRATE	3
VEGETATED/STONE AREAS INCLUDING DITCHES & SUMPS	NEENAH R-4342 STOOL-TYPE GRATE (NO FRAME)	N/A - DIRECT FIT INTO 24"Ø CONC. RING

NOTE: NEENAH MEANS NEENAH FOUNDRY CO., NEENAH, WI

CB SPECIFICATIONS:

1. ALL WORK TO COMPLY WITH NHDOT SECTION 604.
2. PRECAST SECTIONS TO BE REINFORCED CONCRETE COMPLYING WITH ASTM C478.
3. FLEXIBLE BUTYL-RESIN SEAL TO BE BY CONSEAL OR EQUIVALENT.
4. PIPE TO MH CONNECTORS TO BE KOR-N-SEAL BY NPC, INC., MILFORD, NH, OR EQUIVALENT; COMPLY WITH ASTM C923.
5. MORTAR TO COMPLY WITH NHDOT SECTION 707.
6. FRAME AND GRATES SHALL BE CAST IRON COMPLYING WITH ASTM A48, CLASS 30 AND SHALL OF THE STYLE INDICATED IN THE FRAME & GRATE TABLE.
7. THERE SHALL BE A MINIMUM OF 6 INCHES OF CONCRETE BETWEEN ADJACENT CORE-HOLES.
8. BACKFILL CB WITH NHDOT ITEM 304.1 SAND (EXCEPT 100% PASSING 1" SIEVE) AND COMPACT TO 95% (PER ASSHTO T-180) IN 12" MAXIMUM LIFTS.

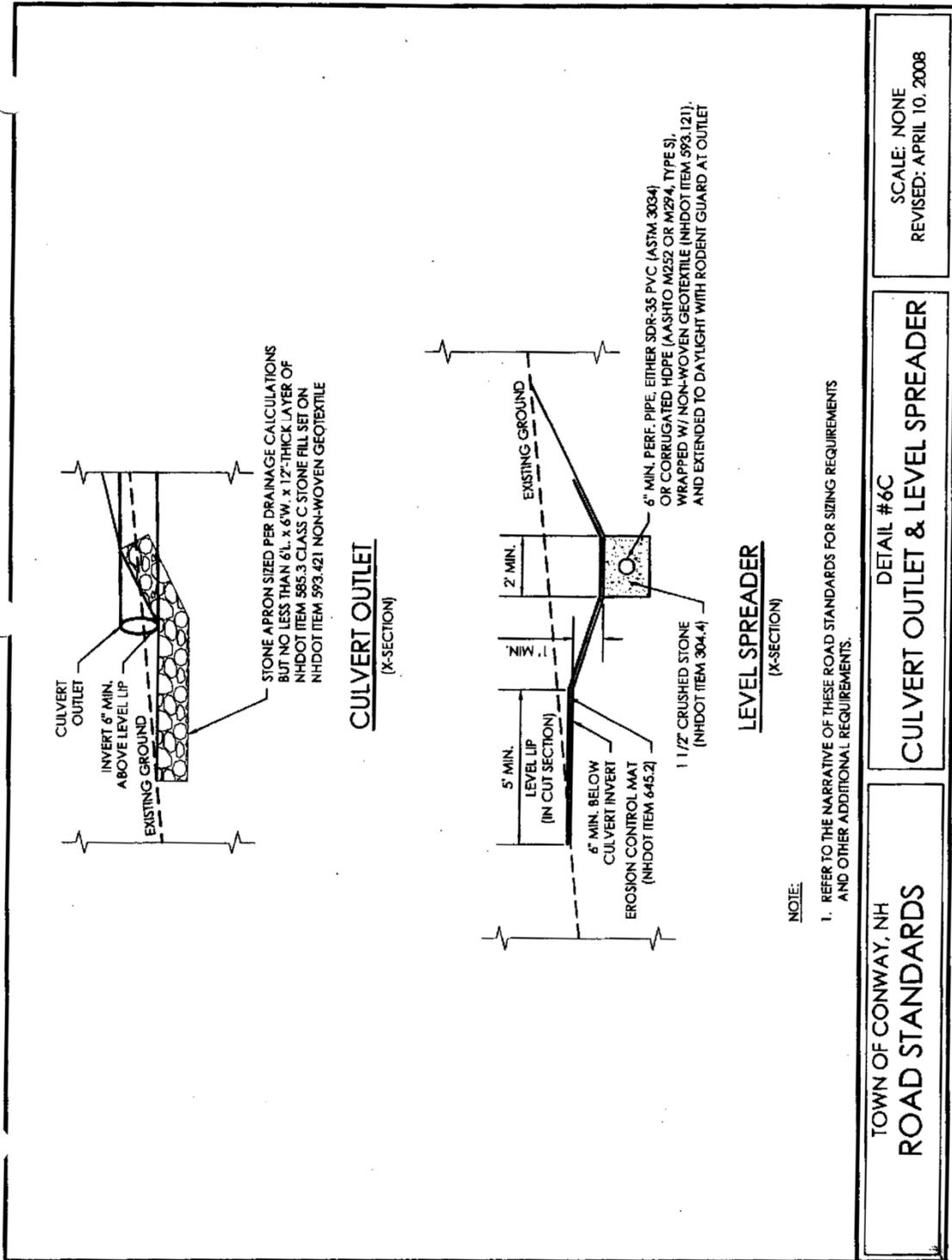


DETAIL #68
TYPICAL CATCH BASIN

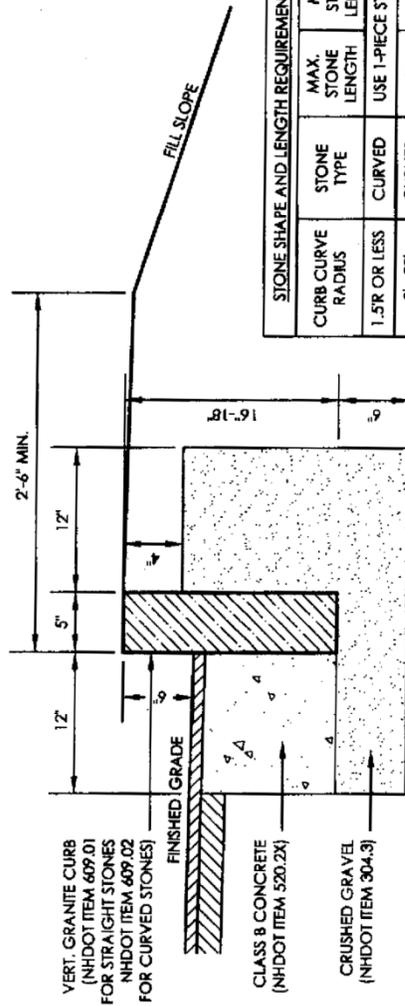
TOWN OF CONWAY, NH
ROAD STANDARDS

SCALE: NONE
REVISED: DEC. 13, 2009

SUBDIVISION OF LAND



CONWAY CODE



STONE SHAPE AND LENGTH REQUIREMENTS			
CURB CURVE RADIUS	STONE TYPE	MAX. STONE LENGTH	MIN. STONE LENGTH
1.5R OR LESS	CURVED	USE 1-PIECE STONE	
2' - 20'	CURVED	3'	3'
21'	STRAIGHT	3'	3'
22' - 28'	STRAIGHT	4'	3'
29' - 35'	STRAIGHT	5'	3'
36' - 42'	STRAIGHT	6'	5'
43' - 49'	STRAIGHT	7'	5'
50' - 56'	STRAIGHT	8'	5'
57' - 60'	STRAIGHT	9'	5'
OVER 60'	STRAIGHT	10'	9'

CURB SPECIFICATIONS:

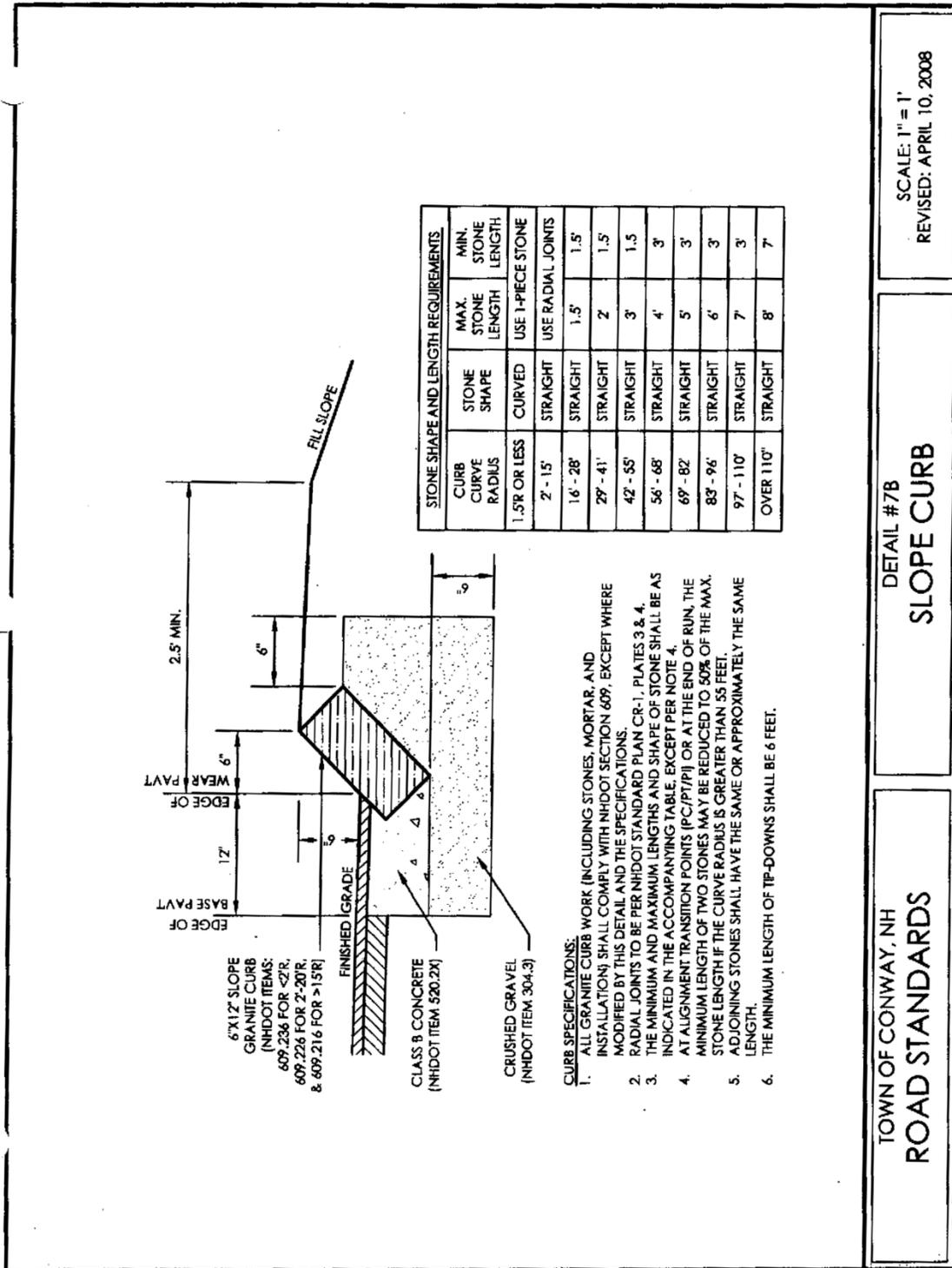
1. ALL GRANITE CURB WORK (INCLUDING STONES, MORTAR, AND INSTALLATION) SHALL COMPLY WITH NH/DOT SECTION 609, EXCEPT WHERE MODIFIED BY THIS DETAIL AND THE SPECIFICATIONS.
2. THE MINIMUM AND MAXIMUM LENGTHS AND SHAPE OF STONE SHALL BE AS INDICATED IN THE ACCOMPANYING TABLE, EXCEPT PER NOTE 3.
3. AT ALIGNMENT TRANSITION POINTS (PC/PT/PI) OR AT THE END OF RUN, THE MINIMUM LENGTH OF TWO STONES MAY BE REDUCED TO 50% OF THE MAX. STONE LENGTH.
4. ADJOINING STONES SHALL HAVE THE SAME OR APPROXIMATELY THE SAME LENGTH.
5. THE MINIMUM LENGTH OF TIP-DOWNS SHALL BE 6 FEET.

TOWN OF CONWAY, NH
ROAD STANDARDS

DETAIL #7A
VERTICAL CURB

SCALE: 1" = 1'
REVISED: APRIL 10, 2008

SUBDIVISION OF LAND

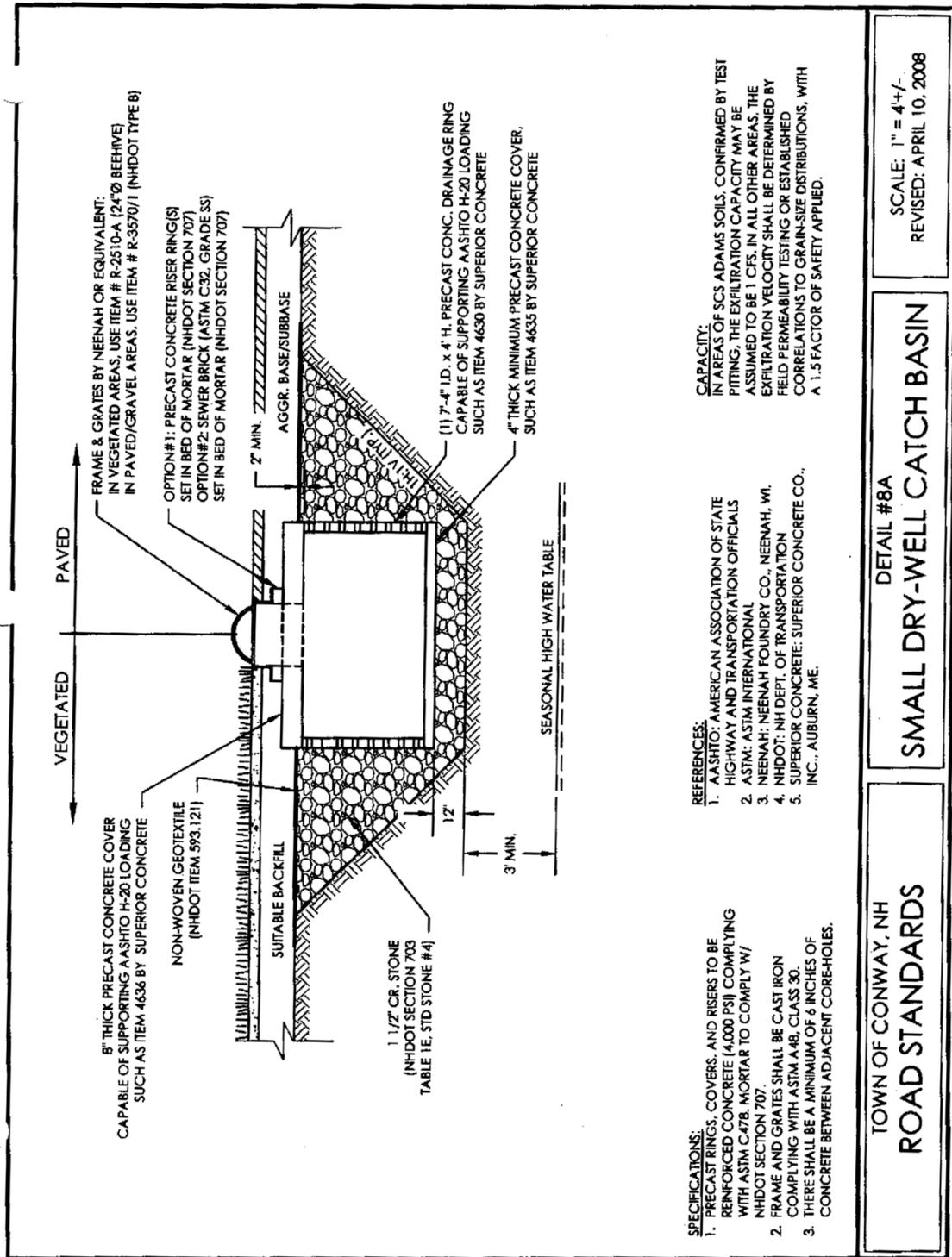


SCALE: 1" = 1'
REVISED: APRIL 10, 2008

DETAIL #78
SLOPE CURB

TOWN OF CONWAY, NH
ROAD STANDARDS

CONWAY CODE



CAPACITY:
 IN AREAS OF SCS ADAMS SOILS, CONFIRMED BY TEST PITTING, THE EXFILTRATION CAPACITY MAY BE ASSUMED TO BE 1 CFS. IN ALL OTHER AREAS, THE EXFILTRATION VELOCITY SHALL BE DETERMINED BY FIELD PERMEABILITY TESTING OR ESTABLISHED CORRELATIONS TO GRAIN-SIZE DISTRIBUTIONS, WITH A 1.5 FACTOR OF SAFETY APPLIED.

REFERENCES:
 1. AASHTO: AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS
 2. ASTM: ASTM INTERNATIONAL
 3. NEENAH: NEENAH FOUNDRY CO., NEENAH, WI.
 4. NHDOT: NH DEPT. OF TRANSPORTATION
 5. SUPERIOR CONCRETE: SUPERIOR CONCRETE CO., INC., AUBURN, ME.

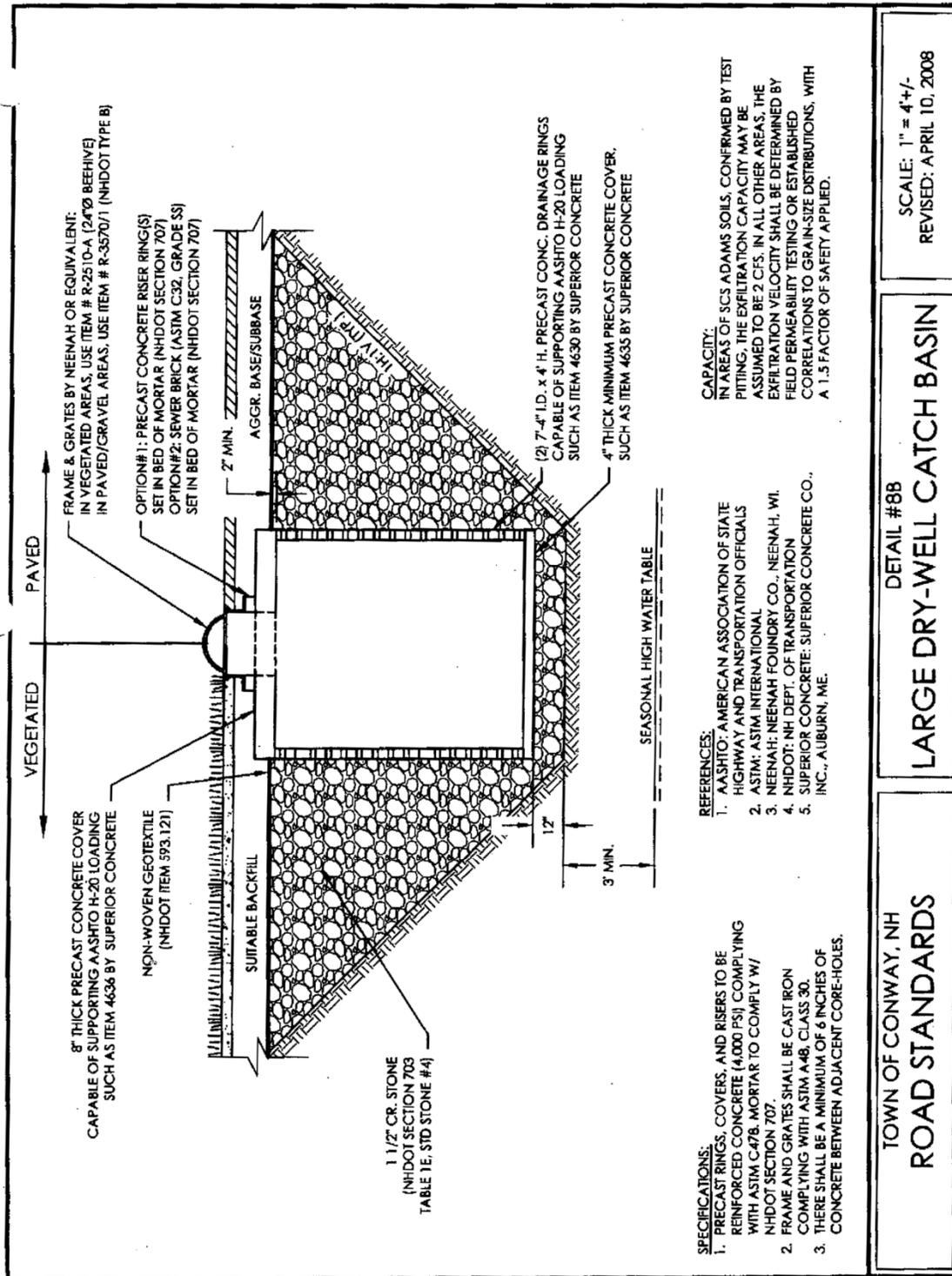
SPECIFICATIONS:
 1. PRECAST RINGS, COVERS, AND RISERS TO BE REINFORCED CONCRETE (4,000 PSI) COMPLYING WITH ASTM C478. MORTAR TO COMPLY WITH NHDOT SECTION 707.
 2. FRAME AND GRATES SHALL BE CAST IRON COMPLYING WITH ASTM A48, CLASS 30.
 3. THERE SHALL BE A MINIMUM OF 6 INCHES OF CONCRETE BETWEEN ADJACENT CORE-HOLES.

SCALE: 1" = 4'+/-
 REVISED: APRIL 10, 2008

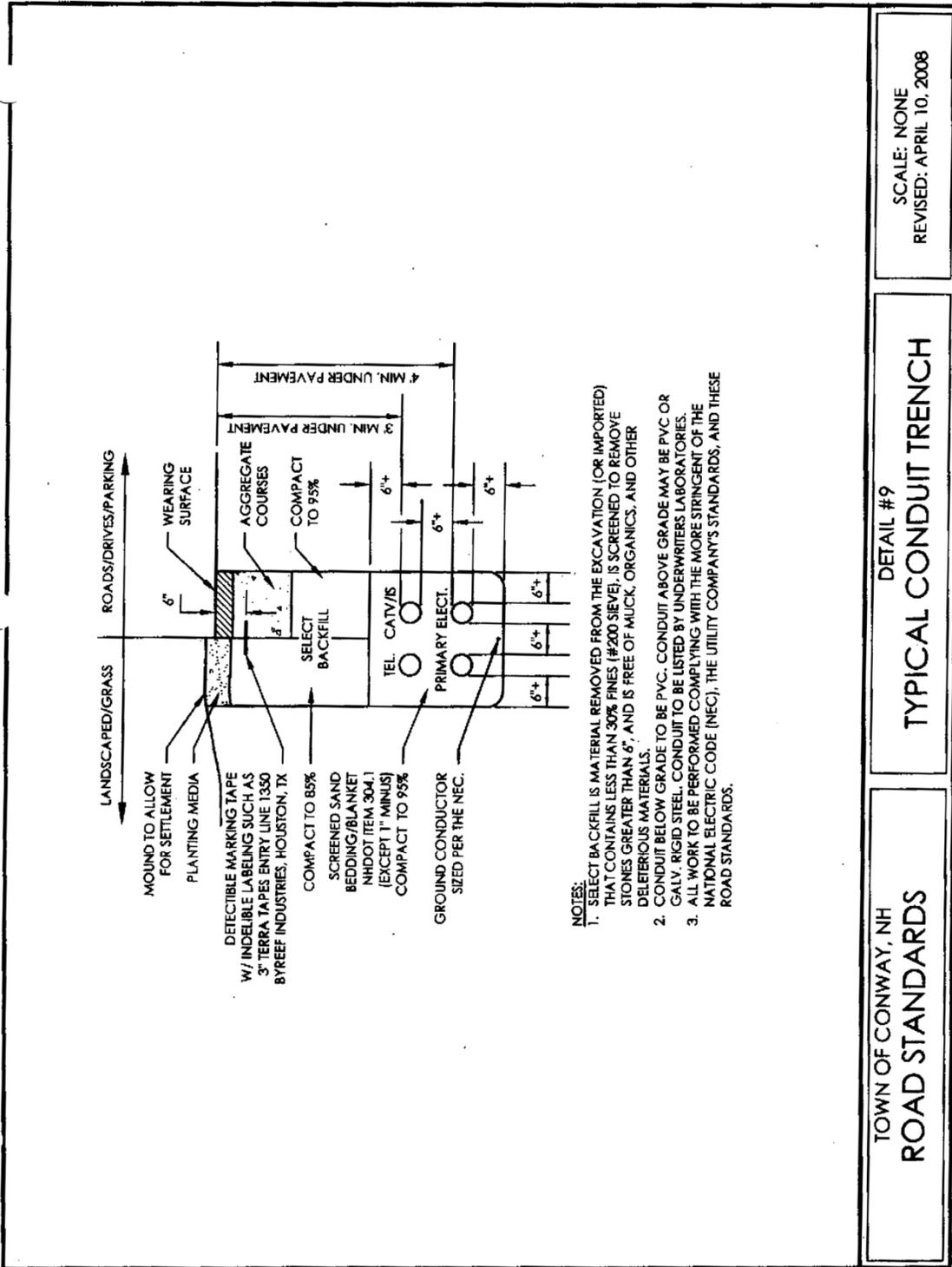
DETAIL #8A
 SMALL DRY-WELL CATCH BASIN

TOWN OF CONWAY, NH
 ROAD STANDARDS

SUBDIVISION OF LAND



CONWAY CODE

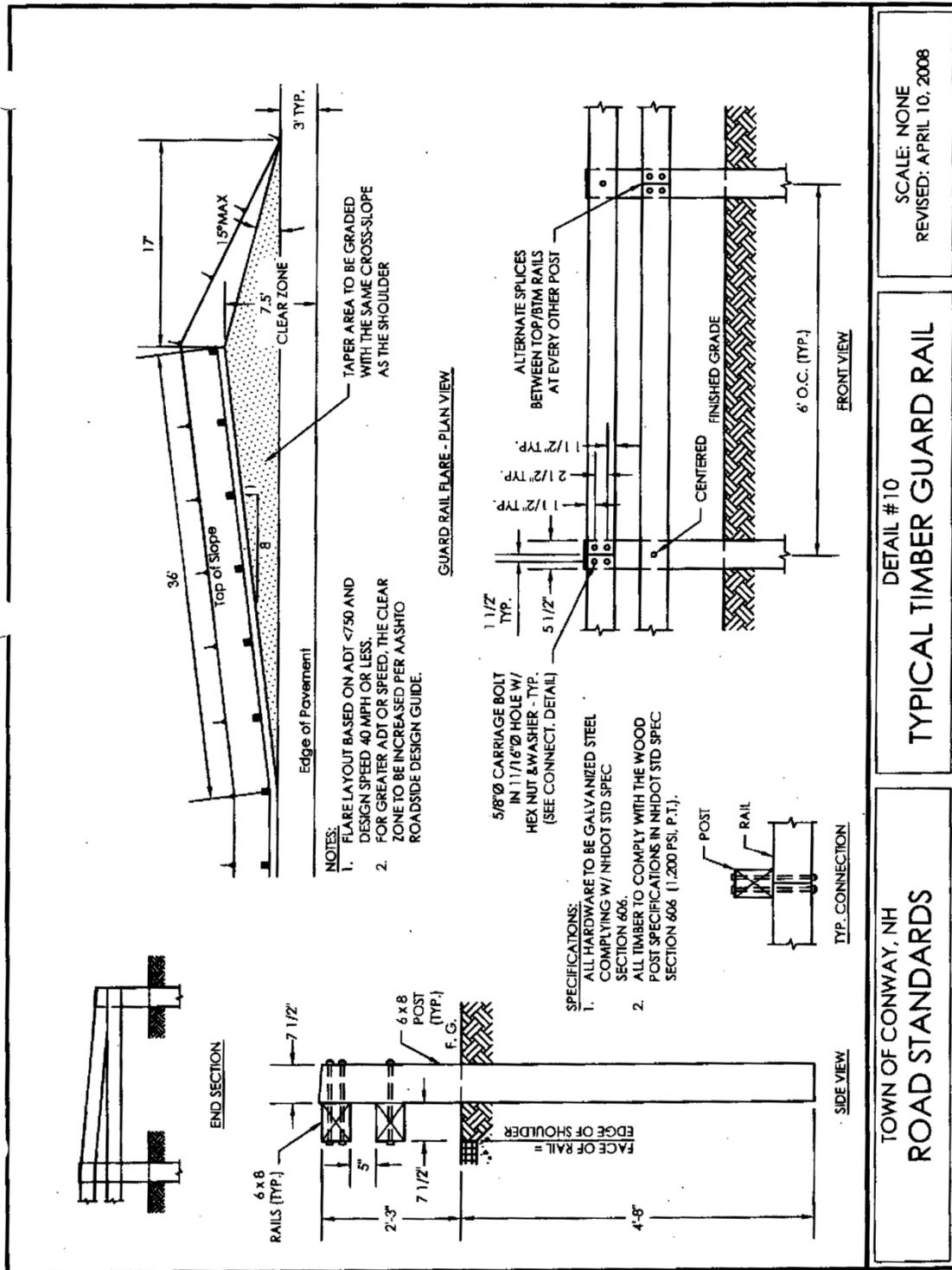


SCALE: NONE
REVISED: APRIL 10, 2008

DETAIL #9
TYPICAL CONDUIT TRENCH

TOWN OF CONWAY, NH
ROAD STANDARDS

SUBDIVISION OF LAND



SUBDIVISION OF LAND

130 Attachment 5

Town of Conway

Subdivision Application

INSTRUCTIONS

Please complete each section of this application from and submit it with all required application material to:
Town Planning Director or Planning Board
Conway Town Office
1634 East Main Street
Center Conway, NH 03813-0070

Wherever possible, please call the Town Planning Director at (603) 447-3855 to arrange an appointment to hand-deliver the application. At a scheduled appointment, the material submitted will be reviewed for completeness with the applicant. Incomplete submission materials will be returned, causing unnecessary delays. Please use the appropriate checklist to ensure that your application is complete.

TYPE OF APPLICATION

Lot Subdivision [] Unit Subdivision [] Boundary Line Adjustment []

PROPERTY OWNER

Name: _____
Mailing Address: _____
Daytime Phone #: (____) _____

AUTHORIZED AGENT (Complete if applicable)

Person or Firm's Name: _____
Mailing Address: _____
Daytime Phone #: (____) _____

SITE IDENTIFICATION

Street Address: _____
Zoning District: _____
Lot Size: _____ (acres) PID: _____
Proposed # of Lots: _____ Proposed # of Units: _____

PROJECT DESCRIPTION

I hereby certify that all information presented in this application is, to the best of my knowledge, correct. Further, if the application is approved I realize that any deviation or change from what is described above will require a reevaluation by the Planning Board.

SIGNATURE OF OWNER: _____ DATE: _____

NOTE: The owner may authorize, in writing, an agent to represent this project before the Planning Board. Such authorization shall indicate the agent's name, company, mailing address, and daytime telephone number. This authorization must be signed by the owner and must be submitted with this application.

SUBDIVISION OF LAND

130 Attachment 7

Town of Conway

Application Checklist

Application Content Item	Compliance	Section
Complete application signed by owner		130-7B(1) and 130-17A
Abutters list and labels		130-7B(2) and 130-17B(1)
Payment of all fees		130-7B(3), 130-17B(2), 130-21
Plans (four copies)		130-7B(4) and 130-17B(3)
Bar scale and graphic scale: 1" = 100' or greater		130-23, 130-23A, 130-24B
Plans: 22" x 34"		130-23
Date and date(s) of any revision(s)		130-23A, 130-23B, 130-24A, 130-24B
Name of municipality		130-23A and 130-24A
Name of subdivision		130-23A and 130-24A
Location map		130-23A and I
Municipal and zoning district		130-23H
Name and address of recorded owner/subdivider		130-23A and 130-24A
Reference meridian and North point		130-23A and 130-24B
Name and address of engineer/surveyor/designer		130-23A and 130-24A
Seal of engineer and certification note		130-24I and J
Seal of surveyor and certification note		130-24I and J
Subdivisions within 100 feet		130-23C and 130-24C
Intersecting roads and driveways within 200 feet		130-23C and 130-24C
Structures within 200 feet		130-23C, 130-23E and 130-24C
Wooded areas within 200 feet		130-23E
Abutters names, addresses and tax numbers		130-23C and 130-24C
Existing lot lines and/or unit locations		130-23B, 130-23D, 130-24B and 130-24E
Bearings and dimensions		130-24E
Lot sizes in square feet and acres		130-23B, 130-23D, 130-24B and 130-24E
Consecutive numbering of lots and/or units		130-24E
Monuments at lot corners		130-24E
Proposed lot lines and or unit locations		130-23D and 130-24E
Lots/Units numbered consecutively		130-23C and 130-24E
Bearings and dimensions		130-24E
Lot sizes in square feet and acres		130-24E
Monuments at lot corners		130-24E
List/Location of existing easements/deed restrictions		130-23E and 130-24F

CONWAY CODE

Application Content Item	Compliance	Section
List/Location of proposed easements/deed restrictions		130-23E and 130-24F
Building setback lines		130-23E and 130-24F
Land reserved or dedicated for public use and purpose		130-23E, 130-23F and 130-52
Flood-prone areas (100-year)		130-23E
Significant natural or man-made features		130-23E and 130-24F
Water mains and sanitary sewers		130-23E
Drainage structures, lines and ways		130-23E
Watershed areas and watercourses		130-23E and 130-24F
Existing telephone, electricity and other utilities		130-23G
Proposed telephone, electricity and other utilities		130-23G
Soil mapping units and unit boundaries		130-23J and 130-28
Soil suitability calculations for each proposed lot		130-28
Statement of soil suitability for development		130-23K
Contiguous area <15% slope of 8K/4K per unit		130-23K
Note of proposed use of sites other than residential		130-23F and 130-24G
Statement of the work required on existing streets		130-23L
Zoning compliance statement		130-23M
Two-foot contours		130-23N
Watershed areas		130-23O
Preliminary drainage analysis and computations		130-23O
Preliminary road profiles		130-23P
NH DES subdivision application/permit		130-23Q and 130-24O
NH DES terrain application/permit		130-23Q and 130-24O
NH DOT driveway application/permit		130-23Q and 130-24O
NH DES dredge and fill application/permit		130-23Q and 130-24O
Precinct water/sewer approval		130-23X, 130-24N and 130-54A
Fire Chief's approval		130-24S and 130-54C
Police Chief's approval		130-54D
Other local/state federal applications/approvals		130-23Q, 130-23S, 130-24O and 130-54
Statement that lots and road center lines are adequately flagged		130-23R
Test pit: 10 feet deep		130-23T
Percolation test data and date		130-23U
4K site suitable of sewage disposal		130-23V
Benchmark		130-23W
Deed restrictions		130-24F

SUBDIVISION OF LAND

Application Content Item	Compliance	Section
Parks or open space to be reserved/dedicated for public use		130-24F
Purpose of any easement/land reserved/dedicated to public use		130-24G
Location map		130-24H
Subdivider's responsibility acknowledgement note		130-24L
Approval of municipality, state or county on plat		130-24M
Plan for recreational development of open space		130-24Q
BLA note		130-24R
Supplemental plans		130-24T
Landscaping note		130-24U
Easement note		130-24V
Subdivision grading and drainage plans		130-24A
Road design		130-25B
Subdivision utility plan		130-25C
All lots must front on a street		130-29B
Lots shall be sized per § 130-29		130-30C
The lot length-to-width ratio should generally not exceed 3:1		130-329E
Corner lots should have extra width re: street setbacks		130-29F
Side lines of lots at right angles to straight/radial to curved streets		130-29H
Lots fronting on two parallel streets discouraged		130-29I
Open space/common space		130-29M
Plats and access crossing municipal boundaries		130-32
Reserve strips controlling access to subdivision/other parcels		130-33
Rights-of-way		130-34
New street names (approved by the Conway PD)		130-35
Preservation and protection of existing features		130-36A
Street trees (60 feet O.C.) on streets or private ways		130-37A
Performance bond for 100% of landscaping		130-37B
Topsoil cannot be removed from site w/o PB permission		130-38
Scattered or premature development not allowed		130-39A
Flood hazard area		130-40

Chapter 135
TAXATION

ARTICLE I
Prepayment of Property Taxes

§ 135-1. Acceptance of payments.

ARTICLE II
Semiannual Tax Billing

§ 135-2. Billing period.

ARTICLE III
Exemption for the Blind

§ 135-3. Adoption; amount.

ARTICLE IV
Resident Taxes

§ 135-4. Election not to collect.

[HISTORY: Adopted by the Town of Conway as indicated in article histories. Amendments noted where applicable.]

ARTICLE V
Senior Citizens Tax Exemption

§ 135-5. Adoption of exemption.

§ 135-6. Amount of exemption.

§ 135-7. Qualifications for exemption.

ARTICLE VI
Optional Veterans' Exemption

§ 135-8. Exemption granted; amount.

ARTICLE VII
Credit for Service-Connected Disabilities

§ 135-9. Exemption granted; amount.

GENERAL REFERENCES

Alternative energy source tax exemptions — See Ch. 23,
Art. I.

ARTICLE I
Prepayment of Property Taxes

[Adopted 3-10-1982 ATM by Art. 30; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 135-1. Acceptance of payments.

In accordance with RSA 80:52-a, the Tax Collector may accept prepayment of property taxes prior to issuance of the Tax Warrant, such payments not to be received before April 1 of any given year.

ARTICLE II

Semiannual Tax Billing

[Adopted by the Board of Selectmen 11-3-1982; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 135-2. Billing period.

Semiannual tax billing shall be in effect in the Town beginning with the first payment due July 1, 1983.

ARTICLE III

Exemption for the Blind

[Adopted 3-11-1986 ATM by Art. 21; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 135-3. Adoption; amount.

The Town hereby adopts the provisions of RSA 72:37 for the exemption for the blind from property tax. This statute provides that every inhabitant who is legally blind shall be exempt each year from the property tax on a residence to the value of \$25,000.

ARTICLE IV

Resident Taxes

[Adopted 3-11-1987 ATM by Art. 43; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 135-4. Election not to collect.

The Town hereby adopts the provisions of RSA 72:1-c, which authorizes any town or city to elect not to assess, levy and collect a resident tax.

ARTICLE V

Senior Citizens Tax Exemption

[Adopted as amended 2004 ATM by Art. 33; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 135-5. Adoption of exemption.

The Town hereby adopts the optional adjusted elderly exemptions from property tax.

§ 135-6. Amount of exemption.

The optional exemptions, based on assessed value, for qualified taxpayers shall be as follows:

- A. For a person 65 years of age up to 75 years: \$37,500.
- B. For a person 75 years of age up to 80 years: \$60,000.

C. For a person 80 years of age or older: \$75,000.

§ 135-7. Qualifications for exemption.

To qualify for the exemption adopted by this article, the person must have been a New Hampshire resident for at least five years; own the real estate individually or jointly, or if the real estate is owned by his spouse, they must have been married for at least five years. In addition, the taxpayer must have a net income of less than \$10,000 or, if married, a combined net income of less than \$12,000; and own new assets of \$45,000, excluding the value of the person's residence.

ARTICLE VI

Optional Veterans' Exemption

[Adopted 3-13-1990 ATM by Art. 24; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 135-8. Exemption granted; amount.

The Town hereby adopts the provisions of RSA 72:28 to provide for an optional veterans' exemption and an expanded qualifying war service for veterans seeking the exemption. The optional veterans' exemption shall be \$100.

ARTICLE VII

Credit for Service-Connected Disabilities

[Adopted 3-13-1990 ATM by Art. 25; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 135-9. Exemption granted; amount.

The Town hereby adopts the provisions of RSA 72:35 to provide for a property tax credit on residential property for service-connected total disabilities. The amount of the disability tax credit shall be \$1,400.

Chapter 140

TAXICABS

- | | |
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| § 140-1. Applicability. | § 140-9. Pickup and discharge of passengers at curbs. |
| § 140-2. License required; issuance. | § 140-10. Riding on outside of taxicab. |
| § 140-3. Application for license; fees; expiration; transferability; inspection. | § 140-11. Marking of taxicabs. |
| § 140-4. Operator's license required; transferability; term; fee. | § 140-12. Vehicles owned by hotels and inns. |
| § 140-5. Insurance required. | § 140-13. Limitation on taxicab loads. |
| § 140-6. Parking. | § 140-14. Revocation or suspension of licenses. |
| § 140-7. Cruising to solicit business. | § 140-15. Violations and penalties. |
| § 140-8. Conduct of operator. | |

[HISTORY: Adopted by the Board of Selectmen of the Town of Conway as last amended 5-11-1999. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic — See Ch. 152.

Registration of vehicles — See Ch. 164.

§ 140-1. Applicability.

Every motor vehicle that uses the streets of the Town of Conway with the base of operation therein for the purpose of carrying passengers for hire, except buses and motor vehicles used at funerals, weddings and public parades, shall be deemed to be a taxicab and must be licensed in the Town of Conway under this chapter.

§ 140-2. License required; issuance.

- A. No taxicab shall be operated for hire in the Town until the owner or person controlling the same shall have obtained a license therefor.
- B. The Town Clerk shall issue such license upon application of any person in the manner hereinafter prescribed.
- C. All licenses so issued shall bear the signature of the duly appointed Chief of Police.

§ 140-3. Application for license; fees; expiration; transferability; inspection. [Amended 10-2014]

- A. Applications for taxicab licenses under the chapter shall be made upon forms approved by the Chief of Police and provided by the Town Clerk, who shall keep a record of all

applications and licenses granted. All information required by said form shall be completely furnished by the applicant, and all licenses shall be numbered in the order granted.

- B. The annual fee for each taxicab license granted hereunder shall be in an amount set from time to time by the Board of Selectmen. Said fee shall be paid to the Town Clerk at the time such license is issued. Each such license shall expire August 31 of each year.¹
- C. No license shall be sold, assigned or transferred.
- D. Every license granted hereunder shall apply only to the particular taxicab designated by the vehicle identification number.
- E. All vehicles licensed under this chapter must meet state and Town inspections.

§ 140-4. Operator's license required; transferability; term; fee.

- A. No person shall operate a licensed taxicab without first obtaining from the Town Clerk a license to operate licensed taxicabs, which may be granted when approved by the Chief of Police.
- B. This license is nontransferable and void one year from the date of issuance. The fee for the license shall be in an amount set from time to time by the Board of Selectmen.²

§ 140-5. Insurance required. [Amended 11-3-2015]

Every applicant for a permit to operate a taxicab shall file with the Town Clerk, before the permit is issued, a policy or certificate of liability insurance covering the period of permit, and for each taxicab for which a permit is sought. The policy or certificate of liability insurance shall be issued by a company authorized to do business in the State of New Hampshire, indemnifying the applicant in the sum of at least \$250,000 per person injury; \$250,000 per occurrence and \$100,000 per occurrence for property damages. The Town of Conway, as certificate holder, shall be given no less than 10 days' written notice for termination of said policy.

§ 140-6. Parking.³

The manner, places and times of parking taxicabs shall be prescribed by the Chief of Police.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 140-7. Cruising to solicit business.

No taxicab operator shall cruise up and down the street to solicit business nor shall any taxicab operator or his/her agent solicit business on any public street or place other than parking places designated by the Chief of Police for such taxicabs.

§ 140-8. Conduct of operator. ⁴

No taxicab operator shall interfere in any way with the free passage of pedestrian or vehicular traffic while standing to solicit business or use rude or offensive speech or conduct himself in a rude or offensive manner.

§ 140-9. Pickup and discharge of passengers at curbs.

No taxicab operator shall stop to take on or discharge passengers on any street, square or public place except at the curb or as near thereto as reasonably possible.

§ 140-10. Riding on outside of taxicab.

No person shall be permitted to sit or ride upon any fender, dash, step, running board, top or door of a taxicab.

§ 140-11. Marking of taxicabs.

Every taxicab licensed as aforesaid shall be conspicuously marked as a public taxicab, and the name of the owner shall be conspicuously posted on a printed card in every such taxicab. This section shall not apply to vehicles used at funerals, weddings or public parades while so engaged.

§ 140-12. Vehicles owned by hotels and inns.

This chapter does not include motor vehicles owned or operated by recognized hotels or inns for their bona fide guests.

§ 140-13. Limitation on taxicab loads.

Taxicabs licensed under this chapter shall be limited to the manufacturer's rated carrying capacity or registered gross weight.

§ 140-14. Revocation or suspension of licenses. ⁵

Upon a conviction of a violation by an operator licensed under this chapter of this chapter or any other ordinance of the Town of Conway, or of any offense against the laws of the State of

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

New Hampshire, the Chief of Police may, in his/her discretion, suspend or revoke the license of any taxicab or taxicabs issued under this chapter to the owner of the taxicab operated by such operator, or any taxicab operator's license at the time of such conviction.

§ 140-15. Violations and penalties.

Any person convicted of a violation of any provision of this chapter shall be punishable by a fine not to exceed \$100 for the first offense; \$500 for the second offense; and loss of license for one year for the third offense. Offenses shall be cleared from the record after one year from the date on which the penalty was paid.

Chapter 148

VEHICLES, ALL-TERRAIN

§ 148-1. Purpose.

§ 148-4. Noise curfew.

§ 148-2. Use restricted in certain areas.

§ 148-5. Violations and penalties.

§ 148-3. Designation of trails.

[HISTORY: Adopted by the Board of Selectmen of the Town of Conway 12-21-1972. Amendments noted where applicable.]

GENERAL REFERENCES

Parks and Town property — See Ch. 90.

Vehicles and traffic — See Ch. 152.

§ 148-1. Purpose.

This chapter shall regulate noise of and trespassing by all-terrain vehicles.

§ 148-2. Use restricted in certain areas.

All-terrain vehicles shall be kept 200 feet from homes, churches, schools, tree farms, nurseries, cemeteries and off all plowed private roads unless authorized by the owner(s).

§ 148-3. Designation of trails.

Trails should be designated after authorization by a property owner(s).

§ 148-4. Noise curfew. ¹

The Town will enforce an 11:00 p.m. curfew for noise from all-terrain vehicles within Town limits.

§ 148-5. Violations and penalties.

Violation of this chapter shall carry a fine not to exceed \$20.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 152

VEHICLES AND TRAFFIC

ARTICLE I Weight Limits

- § 152-1. Vehicle restrictions.
- § 152-2. Violations and penalties.

ARTICLE II Parking

- § 152-3. Definitions.
- § 152-4. Enforcement; failure to comply with lawful orders.
- § 152-5. Emergency and experimental regulations.
- § 152-6. Manner of parking.
- § 152-7. Angle parking.
- § 152-8. General stopping, standing and parking regulations.
- § 152-9. Restricting movement of traffic.
- § 152-10. Parking in alleys.
- § 152-11. Parking for certain purposes restricted.
- § 152-12. Parking near schools.
- § 152-13. Parking on narrow streets.

- § 152-14. Night parking for snow removal.
- § 152-15. Loading zones.
- § 152-16. Handicapped parking.
- § 152-17. Applicability of parking prohibitions.
- § 152-18. Parking prohibited.
- § 152-19. Time limit parking.
- § 152-20. Signs required.
- § 152-21. Violations and penalties.
- § 152-22. Responsibility of owner for violations.
- § 152-23. Notice of violation.
- § 152-24. Removal of abandoned and illegally parked vehicles.

ARTICLE III Traffic Regulations

- § 152-25. Amendments by Board of Selectmen.
- § 152-26. Stop intersections.
- § 152-27. Traffic control signals.
- § 152-28. One-way streets.

[HISTORY: Adopted by the Board of Selectmen of the Town of Conway as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Taxicabs — See Ch. 140.
 Animal-drawn vehicles — See Ch. 156.
 Vehicle height and weight limits — See Ch. 160.

Registration of vehicles — See Ch. 164.
 Vending carts — See Ch. 170.

ARTICLE I
Weight Limits

[Adopted 3-1967; amended 11-1987; 7-21-1998; 9-21-1999]

§ 152-1. Vehicle restrictions.

- A. No vehicle with a gross weight in excess of 10 tons (20,000 pounds) shall be permitted upon any highway or road when said highway or road is posted by the Selectmen of Conway.
- B. No through trucking on Town of Conway roads is allowed with a GVWR (gross vehicle weight rating) of 13 tons or more.

§ 152-2. Violations and penalties.

Any person violating this article shall be fined a sum not to exceed \$50.

ARTICLE II
Parking
[Adopted 10-1983]

§ 152-3. Definitions.

As used in this article, the following terms shall have the meanings indicated:

AUTHORIZED EMERGENCY VEHICLE — Vehicles of the fire departments (fire patrol), police vehicles and such ambulances and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the Conway Chief of Police.

BOARD — The Board of Selectmen or the Police Commission when designated by the Selectmen.

COMMERCIAL VEHICLE — Every vehicle designated, maintained or used primarily for the transportation of property.

CROSSWALK —

- A. That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured by the curbs or, in the absence of curbs, from the edges of the traversable roadway.
- B. Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

CURB LOADING ZONE — A space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of materials.

HIGHWAY — The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

INTERSECTION — The area embraced within the prolongation or connection of the lateral curblines or, if none, then the lateral boundary lines of roadways of two highways which join one another at or approximately at right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict. Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection. The junction of an alley with a street or highway shall not constitute an intersection.

MOTOR VEHICLE — Every vehicle which is self-propelled but not operated upon rails, including mopeds.

OFFICIAL TIME STANDARD — Whenever certain hours are named herein, they shall mean standard time or daylight saving time as may be in current use in this Town.

PARK or PARKING — The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

PEDESTRIAN — Any person afoot.

PERSON — Every natural person, firm, copartnership, association or corporation.

POLICE OFFICER — Every officer of the Town Police Department or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

PRIVATE ROAD OR DRIVEWAY — Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

ROADWAY — That portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term "roadway," as used herein, shall refer to any such roadway separately but not to all such roadways collectively.

SAFETY ZONE — The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

SIDEWALK — That portion of a street between the curblines, or the lateral lines of a roadway, and the adjacent property lines intended for use of pedestrians.

STAND or STANDING — The halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.

STOP — When required, complete cessation from movement.

STREET or HIGHWAY — The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

THROUGH HIGHWAY — Every highway or portion thereof on which vehicular traffic is given preferential right-of-way and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right-of-way to vehicles on such through highway in obedience to a stop sign, yield sign or other official traffic control device, when such signs or devices are erected as provided in this article.

TRAFFIC — Pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances, either singly or together, while using any highway for purposes of travel.

TRAFFIC CONTROLLERS — Employees of the Town of Conway Police Department, assigned by the Chief of Police or his designee to control, regulate and maintain the flow of traffic within the Town of Conway. **[Added 9-21-1999]**

VEHICLE — Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

§ 152-4. Enforcement; failure to comply with lawful orders.

- A. It shall be the duty of the Conway Police Department to enforce the provisions of this article.
- B. It shall be unlawful for any person to refuse or fail to comply with any lawful order, signal or direction of a traffic controller or a police officer with authority to direct, control or regulate traffic. **[Amended 9-21-1999]**

§ 152-5. Emergency and experimental regulations.

The Chief of Police, by and with the approval of the Board, is hereby empowered to make regulations necessary to make effective the provisions of the traffic ordinances of this Town and to make and enforce temporary or experimental regulations to cover emergencies or special conditions. No such temporary or experimental regulation shall remain in effect for more than 90 days.¹

§ 152-6. Manner of parking.

Except as otherwise provided in this article, every vehicle stopped or parked upon a roadway shall be so stopped or parked with the right-hand wheels of such vehicle parallel to and within 12 inches of the right-hand curb or the edge of the roadway, where no curb exists, in the direction of traffic movement.

1. Editor's Note: Original § 141-6 of the Town Code, Hours of limit parking, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See now § 152-20, Time limit parking.

§ 152-7. Angle parking.

The Board shall determine upon what streets angle parking shall be permitted and shall mark or sign such streets. Angle parking shall not be permitted at any place where the parked vehicle would conflict with the flow of traffic.

§ 152-8. General stopping, standing and parking regulations. [Amended 7-1984²]

Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer, traffic controller or official traffic control device, no person shall:

A. Stop, stand or park a vehicle:

- (1) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- (2) On a sidewalk.
- (3) Within an intersection.
- (4) On a crosswalk.
- (5) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless indicated differently by signs or markings.
- (6) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.
- (7) Upon any bridge or other elevated structure upon a way or within a highway tunnel.
- (8) On any railroad tracks.
- (9) At any place where official signs prohibit stopping.
- (10) In any parking place, whether on public or private property, specially designated for a person with a walking disability by means of a sign as required by RSA 265:73-a stating that the space is reserved for a person with a walking disability or displaying the international accessibility symbol, unless that person has a special plate or placard issued or recognized pursuant to RSA 261:86 or RSA 261:88, and the person who qualifies for the plate or placard is being transported to or from the parking place. Notwithstanding the provisions of RSA Title LXII or any other provision of law, a person who violates the provisions of this subsection shall be fined a minimum of \$250.
- (11) On any controlled-access highway.
- (12) In the area between roadways of a divided highway, including crossovers.

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (13) In or overlapping into any access aisle. Notwithstanding the provisions of RSA Title LXII or any other provision of law, a person who violates the provisions of this subsection shall be fined a minimum of \$50 for a first offense and a minimum of \$100 for each subsequent offense.
- B. Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:
- (1) In front of a public or private driveway.
 - (2) Within 15 feet of a fire hydrant.
 - (3) Within 20 feet of a crosswalk at an intersection.
 - (4) Within 30 feet upon the approach to any flashing signal, stop sign or traffic control signal located at the side of a roadway.
 - (5) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance (when properly signposted).
 - (6) At any place where official signs prohibit standing.
- C. Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers:
- (1) Within 50 feet of the nearest rail of a railroad crossing.
 - (2) At any place where official signs prohibit parking. No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such a distance as is unlawful.
- D. Stop, stand or park a vehicle for more than 15 minutes:
- (1) In front of the post office in North Conway.
 - (2) On Norcross Circle from White Mount Highway (North Conway) north side near the old bank to Station Drive.
 - (3) Within 20 feet of the official information booth in North Conway.

§ 152-9. Restricting movement of traffic.

No person shall park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than 12 feet of the width of the roadway for free movement of vehicular traffic.

§ 152-10. Parking in alleys.

No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than 12 feet of the width of the roadway for the free movement of

vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property.

§ 152-11. Parking for certain purposes restricted.

No person shall park a vehicle upon any roadway for the principal purpose of:

- A. Displaying such vehicle for sale.
- B. Washing, greasing or repairing such vehicle, except repairs necessitated by an emergency.

§ 152-12. Parking near schools.

- A. No person shall park a vehicle adjacent to any school property when such parking would interfere with traffic or create a hazardous situation.
- B. When official signs are erected indicating no parking upon either side of a street adjacent to any school property as authorized herein, no person shall park a vehicle in any such designated place.

§ 152-13. Parking on narrow streets.

- A. The Board is hereby authorized to erect signs indicating no parking upon any street when the width of the roadway does not exceed 20 feet or upon one side of a street as indicated by such signs when the width of the roadway does not exceed 30 feet.
- B. When official signs prohibiting parking are erected upon narrow streets as authorized herein, no person shall park a vehicle upon any such street in violation of any such sign.

§ 152-14. Night parking for snow removal.

- A. No person shall park a vehicle on any street from 12:00 midnight to 8:00 a.m. during the winter snow removal period starting November 15 and ending April 15 of each year.
- B. The Board may reduce the no-parking hours during the snow removal period from 12:00 midnight to 8:00 a.m. to 1:15 a.m. to 8:00 a.m. in certain areas containing establishments with liquor licenses. Official signs shall be erected in areas so designated.
- C. The Town will not be liable for any damage to any vehicle that may be in violation of this section.

§ 152-15. Loading zones.

- A. The Police Department shall have authority, subject to the approval of the Board, to determine the location of loading zones and shall erect and maintain or cause to be maintained appropriate signs indicating the same.

- B. It shall be unlawful for the driver of a vehicle to stop, stand or park said vehicle for a period of time longer than is necessary for the expeditious loading or unloading of material in any place marked as a loading zone.
- C. It shall be unlawful for the driver of a vehicle to stop, stand or park said vehicle for a period of time longer than is necessary for the expeditious loading or unloading of passengers or for the unloading and delivery or pickup and loading of materials in any place marked as a loading zone. In no case shall the stop for loading and unloading of materials exceed 30 minutes.

§ 152-16. Handicapped parking. ³

The Board is hereby authorized to designate and mark by proper signs parking for handicapped persons and persons picking up or discharging handicapped persons only. It shall be unlawful for any person not a handicapped person or person picking up or discharging handicapped persons to park in areas so designated.

§ 152-17. Applicability of parking prohibitions. ⁴

The provisions of §§ 152-10 through 152-16 prohibiting the standing or parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official signs, except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer, traffic controller or official traffic control device.⁵

§ 152-18. Parking prohibited. [Amended 12-2001; 8-2002⁶]

When signs are erected giving notice thereof, no person shall park a vehicle at any time upon any of the streets described below:

Name of Street*	Side	Location*
Chase Avenue	North	From Pleasant Street to Pollard Street
Colbath Street	Both	From Hobbs Street (CV) to the end
Common Court	Both	From intersection with North-South Connector to intersection with McMillan Lane
Cottage Road	Both	From Colbath Street to the end
Cranmore Road	South	From Kearsarge Road to the end of circle

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

5. Editor's Note: Original § 141-19 of the Town Code, Applicability of parking time limit, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See now § 152-19.

6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Name of Street*	Side	Location*
East Main Street (CV)	North	From Route 16/113 intersection to Maine State Line
East Main Street (CV)	South	From Route 16/113 intersection to Maine State Line
Eastman Road/Rt. 302	Both	From Route 16/White Mountain Highway to Crest Chevrolet
Echo Acres	Both	From Route 16 to the railroad crossing
Greenwood	South	From Pleasant Street to Wilder Street
Grove Street	North	From White Mount Highway (NC) to the end
Grove Street	South	From White Mount Highway to easterly side of the North Conway Bank driveway
Haven Lane	Both	From Route 16 to the Town line
Kearsarge Road	Both	From White Mount Highway (NC) east for 100 feet
Kearsarge Road	South	From a point 475 feet east of White Mount Highway (NC) to the railroad crossing
Main Street (CV)	North	From East Main Street (CV) to a point 375 feet west of Washington Street
Main Street (CV)	South	From the entrance to the post office to Pleasant Street
Maple Street (NC)	Both	From Ledgewood Road to Ash Street
McMillan Lane	Both	Entire length
Mechanic Street	North	From White Mount Highway (NC) to the railroad crossing
Mechanic Street	South	From White Mount Highway (NC) to Pine Street
Mill Street (CC)	Both	From a point 400 feet west of the bridge to Pine Tree School
Norcross Circle	West	From White Mount Highway (northern entrance) to the railroad station
North Road	Both	From Route 16/Main Street to West Main Street
North-South Road	Both	From Kearsarge Road to U.S. Route 302
North-South Road	West	From Mechanic Street to Kearsarge Road
Old Bartlett Road	Both	From Skimobile Road to Kearsarge Road
Old West Side Road	Both	From Echo Lake State Park gate to Bow Lane
Pleasant Street	East	From Route 16 to the transmission line
Pollard Street	East	From East Main Street (CV) to the end

Name of Street*	Side	Location*
River Street (CV)	North	From East Main Street (CV) to the end
Seavey Street	South	From White Mountain Highway east for 50 feet
Skimobile Road	South	From Kearsarge Road to the end
The Lane	East	From Kearsarge Road to Mechanic Street
Washington Street	East	From Main Street (CV) north for 125 feet
Washington Street	West	From Main Street (CV) north for 220 feet
West Main Street (CV)	Both	From Haven Lane to Route 16/Main Street
West Main Street (CV)	West	From the south entrance to the park to Old Station Road
White Mount Highway (NC)	East	From Duprey Road to Depot Street
White Mount Highway (NC)	East/West	From the intersection of Route 16/113 to Duprey Road
Wilder Street	Both	From Route 113/East Main Street to the end

* NOTE: The following abbreviations, whose meanings are indicated below, are used in this schedule to indicate the locations of certain streets and parts of streets:

CC — Center Conway CV — Conway Village NC — North Conway

§ 152-19. Time limit parking. [Amended 11-1987; 4-2001; 8-2001; 10-2001; 8-2002.]

- A. On streets where there is a time limit on parking as set forth below, restrictions will be enforced between the hours of 8:00 a.m. and 6:00 p.m. unless otherwise indicated by signs.
- B. The provisions of this section imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limited the stopping, standing or parking of vehicles in specified places or at specified times.
- C. Where signs are erected giving notice thereof, no person shall park a vehicle for longer than the time limit indicated upon those streets listed below:⁸

Name of Street*	Side	Time Limit	Location*
Cranmore Road	Southeast	2 hrs.	From Cranmore Circle to Skimobile Road
Greenwood Avenue	North	2 hrs.	From Pleasant Street to Wilder Street

7. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

8. Editor's Note: See also the time-limit stopping, standing and parking restrictions in § 152-8D above.

Name of Street*	Side	Time Limit	Location*
Grove	South	2 hrs.	East from a point 40 feet east of White Mount Highway to the end
Kearsarge Road	North	2 hrs.	From a point 100 feet east of White Mount Highway to Kearsarge Road
Kearsarge Road	South	2 hrs.	From a point 100 feet east of White Mount Highway to a point 475 feet east of White Mount Highway
Kearsarge Road	South	2 hrs.	From the railroad crossing to The Lane
Main Street (CV)	All	1 hr.	West from Washington Street and Pleasant Street to the intersection with West Main Street
Mechanic Street	South	2 hrs.	From Pine Street to the railroad crossing
Norcross Circle	East	2 hrs.	Entire length
North-South Road	East	2 hrs.	From Mechanic Street to Kearsarge Road
Pine Street	East	15 min.	120 feet southerly from stop sign
Pine Street	North	1 hr.	From a point 120 feet east of Route 16/White Mountain Highway to a point 330 feet east of Route 16/White Mountain Highway
Pine Street	North	15 min.	80 feet westerly from corner
Seavey Street	North	2 hrs.	From a point 50 feet east of White Mount Highway (NC) to the railroad crossing
Skimobile Road	North	2 hrs.	From Kearsarge Road to the end
The Lane	West	2 hrs.	From Kearsarge Road to Mechanic Street
Washington Street	East	1 hr.	From Main Street (CV) to Conway Village Park
Washington Street	West	1 hr.	From Main Street (CV) to Conway Village Park
West Main Street (CV)	Both	1 hr.	From Main Street (CV) to Haven Lane
White Mount Highway (NC)	East	2 hrs.	From Depot Road to Pine Street
White Mount Highway (NC)	West	2 hrs.	From Depot Road to River Road

*NOTE: The following abbreviations, whose meanings are indicated below, are used in this schedule to indicate the locations of certain streets and parts of streets:

CC — Center Conway CV — Conway Village NC — North Conway

§ 152-20. Signs required.

Whenever, by this article or any other ordinance of this Town, any parking time limit is imposed or parking is prohibited on designated streets, it shall be the duty of the Police Commission, subject to the approval of the Board, to erect appropriate signs giving notice thereof, and no such regulations shall be effective unless said signs are erected and in place at the time of any alleged offense.

§ 152-21. Violations and penalties. [Amended 11-1987; 4-2001]

A. Each owner or operator of a vehicle who violates the provisions of this article which govern and regulate stopping, standing and parking may, within two days of the time when such notice was attached to such vehicle, pay to the police officer in charge and on duty at police headquarters, as a penalty for and in full satisfaction of such violation, the following sums:⁹

Violation	Fine
Parking within 15 feet of fire hydrant	\$50
All -night parking	\$10
Overtime parking	\$10
Double parking	\$5
Parking more than 12 inches from curb	\$10
Parking on restricted area	\$15
Parking to block an alley or street	\$15
Parking within 20 feet of a driveway or crosswalk	\$15
Parking with left side to curb	\$10
Parking with rear wheels to curb	\$10
Parking in a space reserved for the handicapped	\$50

B. Any person who violates § 152-14, regarding parking on streets during the winter snow removal period of November 15 through April 15 of each year shall, upon conviction thereof, be fined \$50.

C. Any person, firm or corporation who or which violates any of the provisions of this article regulating standing, stopping or parking, and who fails to report within two days

9. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

and pay the penalty prescribed in Subsection A, or violates any other provisions of this article may, upon conviction thereof, be subject to a fine of not less than \$50 nor more than \$100.

§ 152-22. Responsibility of owner for violations.

If any vehicle is found upon a street or highway in violation of any provisions of this article regulating the stopping, standing or parking of vehicles and the identity of the driver cannot be determined, the owner, or person in whose name such vehicle is registered, shall be held prima facie responsible for such violation.

§ 152-23. Notice of violation.

A police officer observing a violation of any of the provisions of this article shall attach to the vehicle a notice to the operator or owner that the vehicle has been parked in violation of this article and instructing the operator or owner to report at police headquarters. The notice shall contain:

- A. The location where the vehicle is parked.
- B. The state registration number of such vehicle.
- C. The time at which such vehicle is parked in violation of any of the provisions of this article.
- D. Any other facts, a knowledge of which is necessary to a thorough understanding of the circumstances attending such violation.

§ 152-24. Removal of abandoned and illegally parked vehicles.

The Police Department is authorized to remove and tow away or have removed and towed away by a commercial towing service any abandoned vehicle or other vehicle illegally parked in a place where it creates or constitutes a traffic hazard, blocks the use of a fire hydrant or obstructs or may obstruct snow removal operations or the movement of any emergency vehicle. Vehicles towed for illegal parking shall be stored in a safe place and shall be restored to the owner or operator upon payment of all fees for towing and storage.¹⁰

10. Editor's Note: Original §§ 141-27, Schedule I: Parking prohibited, and 141-28, Schedule II: Time limit parking, which immediately followed this section, were repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See now §§ 152-19, Parking prohibited, and 152-20, Time limit parking.

ARTICLE III
Traffic Regulations
[Adopted 12-1984]

§ 152-25. Amendments by Board of Selectmen.

Amendments to the locations designated in §§ 152-19, 152-20, 152-26, 152-27 and 152-28 of this chapter by addition, deletion or alteration of entries shall be adopted by the Board of Selectmen as ordinances of the Board of Selectmen.

§ 152-26. Stop intersections. [Amended 11-1987; 8-2002]

The following described intersections are hereby designated as stop intersections at which vehicles approaching such intersections shall come to a full stop before entering such intersections, and stop signs shall be installed as follows:

Stop Sign On	Direction of Travel	At Intersection of
Allard Farm Circuit	South	Birch Hill Road
Allen's Siding	East	West Side Road
Artist Falls Road	East	North-South Road
Artist Falls Road	West	North-South Road
Artist Falls Road	West	Route 16/White Mount Highway
Attitash Lane	West	Forbes Drive
Bald Hill Road	East	Route 16/White Mount Highway
Birch Hill Road	East	West Side Road
Butternut Lane	South	Kancamagus Highway
Cathedral Ledge Road	North	Old West Side Road
Chase Avenue	East	Pollard Street
Chase Avenue	West	Route 153/Pleasant Street
Common Court Connector	East	North-South Road
Common Court Connector	West	Common Court
Crescent Drive	West	West Side Road (both exits)
Cross Street	North	Seavey Street
Cross Street	South	Grove Street
Davis Hill Road	North	Old Mill Road
Depot Road	East	North-South Road
Depot Road	West	North-South Road
Depot Street	West	Route 16/White Mount Highway
Duprey Road	West	Route 16/White Mount Highway
Echo Acres Road	East	Route 16/White Mount Highway
Greenwood Avenue	East	Wilder Street
Greenwood Avenue	West	Route 153/Pleasant Street

Stop Sign On	Direction of Travel	At Intersection of
Grove Street	East	North-South Road
Grove Street	West	North-South Road
Grove Street	West	Route 16/White Mountain Highway
Gulf Road	North	South Conway Road and Brownfield Road
Heath Road	South	Route 302/East Main Street
Hemlock Lane	West	North-South Road
Hillside Avenue	East	West Side Road
Hillside Avenue	East	West Side Road (both)
Hobbs Street	West	West Main Street
Intervale Crossroad	East	Kearsarge Road
Intervale Crossroad	West	Route 16/White Mount Highway
Kearsarge Road	North	Hurricane Mount Road
Kennett Street	West	West Main Street
Ledgewood Road	West	Route 16/White Mount Highway
Locust Lane	West	Route 16/White Mount Highway
Maple Street	North	Ash Street
Mechanic Street	East	Kearsarge Road
Mechanic Street	West	Route 16/White Mount Highway
Mill Street (CC)	North	Route 302/East Main Street
Mountain Street	West	Route 302/Eastman Road
Mountain Valley Boulevard	East	North-South Road
Norcross Circle	East	Route 16/White Mount Highway
North Road	West	Route 16/Main Street
North-South Road	North	Kearsarge Road
North-South Road	South	Kearsarge Road
Oak Street (NC)	South	Mechanic Street
Old Bartlett Road	North	Whitaker Lane
Old Bartlett Road	South	Whitaker Lane
Old Bartlett Road	West	Kearsarge Road
Old Mill Road	North	Route 302/East Main Street
Old Mill Road	West	Mill Street (CC)
Old West Side Road	North	River Road
Passaconaway Road	East	West Side Road
Pequawket Drive	East	Quint Street
Pine Street	West	Route 16/White Mount Highway
Quint Street	East	Tasker Hill Road
Red Ridge Lane	West	Forbes Drive

Stop Sign On	Direction of Travel	At Intersection of
Route 113	West	East Conway Road
Seavey Street	East	North-South Road
Seavey Street	North	Kearsarge Road
Seavey Street	West	North-South Road
Seavey Street	West	Route 16/White Mount Highway
Sidetrack Road	East	West Side Road
Skimobile Road	West	Kearsarge Road
Stark Road	North	Route 113/East Main Street
Stark Road	West	Route 153/Eaton Road
Sunset Hill Road	West	Route 16/White Mount Highway
Tasker Hill Road	North	Route 153/Pleasant Street
The Lane	North	Mechanic Street
The Lane	South	Kearsarge Road
Thompson Road	North	Artist Falls Road
Thorne Hill Road	East	Route 16/Main Street
Towle Road	North	Kancamagus Highway (Rte. 112)
Valley View Road	East	Route 16/White Mountain Highway
Village Lane	South	Route 113/East Main Street
Washington Street	East	Route 16A/East Side Road
Washington Street	West	West Side Road
West Main Street	North	Route 16/Main Street
West Main Street	South	Route 16/Main Street
West Side Road	North	River Road
Whitaker Lane	East	Old Bartlett Road
Whitaker Lane	West	Kearsarge Road
Whitaker Lane	West	Old Bartlett Road
Wilder Street	North	Route 113 and East Main Street
Wilder Street	South	Chase Avenue
Woodland Grove	East	Stark Road
Wyman Avenue	North	Hurricane Mountain Road

§ 152-27. Traffic control signals.

Traffic control signals shall be installed and operated at the following described intersections:

Intersection
(Reserved)

§ 152-28. One-way streets. [Amended 11-1987; 8-2002]

The following described streets or parts of streets are hereby designated as one-way streets, and vehicles traveling on them shall proceed only in the direction indicated:

Name of Street	Direction of Travel	Limits
Blueberry Lane	Counterclockwise	Entire length
Norcross Circle	West	From Route 16 to the former Post Office
North-South Road	South	From Mechanic Street to Kearsarge Road

Chapter 156

VEHICLES, ANIMAL-DRAWN

§ 156-1. Authority and purpose.

§ 156-5. Insurance.

§ 156-2. Scope of regulations; definitions.

§ 156-6. Parking and routes.

§ 156-3. License required.

§ 156-7. Equipment and operating restrictions.

§ 156-4. Fees; license expiration and transferability.

§ 156-8. Violations and penalties.

[HISTORY: Adopted by the Board of Selectmen of the Town of Conway 6-6-1988. Amendments noted where applicable.]

GENERAL REFERENCES

Dogs and other animals — See Ch. 35.

Vehicles and traffic — See Ch. 152.

Hawkers, peddlers and solicitors — See Ch. 62.

§ 156-1. Authority and purpose.

In accordance with the authority granted to the Selectmen of Conway per RSA 47:17, VII and VIII, the Selectmen determine a need to regulate animal-drawn vehicles operating on public roads within the Town of Conway which solicit and carry passengers for hire. This chapter is necessary to enhance safety to travelers on said roads, reduce health concerns through removal of animal waste, protect the roads from unusual and excessive wear, and protect and enhance the quality of life and well-being of the Town of Conway.

§ 156-2. Scope of regulations; definitions.

Every sleigh, wagon or conveyance drawn by horse or other animal using the public roads in Conway for the purposes of carrying passengers for hire shall collectively for purposes hereunder be referred to as a "wagon" and must be licensed under this chapter, except wagons used at charitable or public functions performed without charge, funerals, weddings and public parades which are exempt from licensing. All references to "roads" shall mean public streets and roads within the Town of Conway.

§ 156-3. License required.

- A. No wagon shall be operated for hire on the roads in the Town of Conway until the owner or person controlling the same shall have obtained a license therefor.
- B. The Town Clerk shall issue licenses to such wagons upon application of the owner or person controlling the same, which license shall be countersigned by the signature of the duly appointed or acting Town Manager of the Town.

- C. Applications for licenses and transfer of licenses under this chapter shall be on forms approved by the Selectmen of the Town and made available by the Town Clerk, who shall keep a record of all applications and licenses and transfers of license granted.
- D. Every licensee shall conspicuously post the license issued by the Town on or within said wagon.

§ 156-4. Fees; license expiration and transferability.¹

- A. The annual license fee shall be in an amount set from time to time by the Board of Selectmen, payable to the Town of Conway with the application for a license. Said license shall be valid for a term not exceeding one year, commencing with the date of issue and expiring on December 31 of each year.
- B. No license shall be sold, assigned or transferred except as hereunder permitted. Each license shall be assigned to one wagon and may be transferred only once in any calendar year to another wagon of the same owner/licensee, provided the wagon to which the license is transferred has been inspected by the Town in the same calendar year. No assignment shall be valid until filed with the office of the Town Clerk and a transfer fee in an amount set from time to time by the Board of Selectmen paid to the Town.

§ 156-5. Insurance.

No wagon licensed under this chapter shall operate on any road in the Town unless the owner or person controlling the same has deposited with the Town Clerk of Conway a certificate of insurance issued by an insurance company regularly doing business within the State of New Hampshire covering injury and property damages accruing to passengers, public liability or property damage in a minimum amount of \$50,000 per person, with a minimum amount of \$100,000 per occurrence and a minimum amount of \$25,000 for property damage to property of others. This policy shall contain a clause obligating the insurance company issuing the same to give 20 days' written notice of cancellation to the Town Clerk of Conway. Any cancellation or lapse of such insurance shall automatically revoke the license granted hereunder, with the Town Clerk to give written notice of such cancellation by certified mail to the licensee addressed as specified under the application for license.

§ 156-6. Parking and routes.

- A. The manner, places and times of parking of wagons in roads of Conway and the routes of travel by a licensee shall be prescribed by the Board of Selectmen from time to time.
- B. The routes to be travelled by each licensee on roads within the Town shall be designated in the application for license, which may be reviewed by the duly appointed and acting Chief of Police of Conway prior to any action thereon by the Board of Selectmen. Such routes shall be established in a manner to minimize the use of roads regularly travelled by motor vehicles at higher rates of speed to prevent additional impact on traffic flow.

¹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Unless an emergency exists, no passenger shall embark or disembark to or from a wagon other than at designated parking spaces for the licensee prescribed by the Board of Selectmen, or when the wagon is located outside the limits of any road.

- C. All vehicles operated on the roads shall be subject to the same laws and regulations applicable to other motorized vehicles operating on said roads, including but not limited to the rules of the road in keeping to the right and use of all required running lights during the nighttime commencing one-half hour after sundown.

§ 156-7. Equipment and operating restrictions.

- A. Every wagon licensed under this chapter shall be inspected for operating running lights, which shall include a minimum of two permanently affixed clear or amber running lights on the front of each wagon or on either side thereof at the front and at least two permanently affixed red-colored running lights on the rear of the wagon together with a three-cornered "caution" sign to be affixed to the rear of each wagon. Each light shall be of a quality and location to be visually seen a minimum distance of 200 feet from said wagon.
- B. Each wagon shall be inspected and a certificate issued at least annually by an agent duly appointed by the Conway Town Manager prior to licensing by its owner. Each licensee shall pay a fee in an amount set from time to time by the Board of Selectmen to the Town for each inspection. An inspection shall require each wagon to have fully operating lights and a caution sign as required under this chapter, wagon and harnesses to be sound, including tight wheels and rims, safe hitches, and operating brakes when designed as part of the wagon. Loose, rotten, or excessively worn wagons, harnesses or parts thereof shall not be used. Denial of inspection shall list in writing items found to be deficient according to these standards.²
- C. All animals drawing licensed wagons shall be shod with flat shoes or shoes corked not more than 1/4 inch and equipped with safe and sturdy harnesses with devices attached for the collection of waste droppings for each animal. No solid animal waste shall be left uncollected on a road by any licensee. Parking areas for horses and wagons shall be kept free of all litter and animal waste. Pavement of the public parking areas for wagons shall be kept cooled in warm weather to prevent tearing, denting or puncture of pavement by horses and wagons.
- D. Each animal drawing a licensed wagon shall be sound, cared for and used in a humane manner with no abusive mistreatment or maltreatment of any animal by whip, undernourishment, lack of water or otherwise lack of good and sufficient gentle care by any owner or person controlling such animal. No lame or limping animal shall be used to draw a licensed wagon. The licensee shall file with the Town a good health certificate issued and dated by a licensed veterinarian during the calendar year for which a license is to issue hereunder, for each animal to be used by the licensee in connection with every licensed wagon. Each animal health certificate shall particularly identify the animal to which it is applicable by name, color, type and breed. No animal shall be used by a

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

licensee to draw a licensed wagon until a copy of said good health certificate is filed with said Town.

- E. The operator of every wagon shall keep on his/her person or displayed in the licensed wagon a copy of said animal health certificate for each animal then used, a copy of the inspection issued for the wagon and harnesses then used, and a copy of the license for the wagon then in use. On request of any law enforcement officer, the operator of any wagon on any road shall forthwith produce for inspection by such officer a copy of the applicable animal health certificates, wagon inspection and wagon license. Failure to produce said documents on request of said law enforcement officer shall be deemed a violation of this chapter. If a law enforcement officer observes any deficiency of the inspection requirements for harnesses and wagons then in use and no accident is then involved, the law enforcement officer shall only issue a deficiency notice. On issuance of a deficiency notice, the licensee shall forthwith withdraw the harness or wagon from regular operation until (1) the harness or wagon is repaired, and (2) the deficiency notice is returned to said law enforcement officer dated and signed by the licensee indicating the repair has been completed. Use and operation of a harness or wagon to carry passengers by a licensee after issuance of a deficiency notice by a law enforcement officer and prior to the repair of such deficiency and return of the deficiency notice as aforesaid shall constitute a violation by the licensee under this chapter.

§ 156-8. Violations and penalties.

Any person convicted of a violation of any provision of this chapter shall be punished by a fine not to exceed \$1,000 for each offense, with the fines collected to inure to the benefit of the general purposes of the Town, and/or a revocation and/or suspension of any license hereunder up to the balance of its term and up to two additional years consecutively following. Nothing shall prohibit the Town, by its Selectmen, from suspending and/or revoking any license granted under this chapter pending final decision of conviction hereunder.

Chapter 160

VEHICLE HEIGHT AND WIDTH LIMITS

§ 160-1. Prohibited acts; exceptions.

§ 160-3. Enforcement.

§ 160-2. Issuance of permit; special conditions.

§ 160-4. Violations and penalties.

[HISTORY: Adopted by the Town Meeting of the Town of Conway 3-11-1987. Amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic — See Ch. 152.

§ 160-1. Prohibited acts; exceptions.

The driving on any way as defined in RSA 259:125, I inside the Town of Conway of any vehicle whose width as defined in RSA 266:14, including load, exceeds 14 feet and/or whose height exceeds 13 feet six inches shall be prohibited, except under the following circumstances:

- A. The driver or owner of the vehicle in question has obtained appropriate permits for operation issued by the Commissioner of Transportation pursuant to RSA 266:24.
- B. The driver or owner of the vehicle in question has obtained appropriate permits issued by the Board of Selectmen authorizing operation of the vehicle in question on ways inside the Town of Conway.

§ 160-2. Issuance of permit; special conditions.

Any driver of a vehicle who procures a permit issued by the Board of Selectmen for operating a vehicle in connection with the provisions hereof shall obey all special conditions by the Board of Selectmen in issuing said permit. Special conditions shall include time, manner, route, police patrol and other special provisions unique to each permit.

§ 160-3. Enforcement.

Any sworn law enforcement officer is empowered to enforce the provisions of this chapter.

§ 160-4. Violations and penalties.

Any person found in violation of this chapter shall be guilty of a violation and may be fined not in excess of \$1,000 per each offense, with such fines to inure to the general budget of the Town per RSA 31:39.

Chapter 164

VEHICLES, REGISTRATION OF

§ 164-1. POW exemption.

[HISTORY: Adopted by the Annual Town Meeting of the Town of Conway 3-11-1986 by Art. 22; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]

§ 164-1. POW exemption.

In accordance with RSA 261:157-a, the Town shall waive the fee to be charged for a permit to register one motor vehicle owned by any person who was captured and incarcerated for 30 days or more while serving in a qualifying war or armed conflict as defined in RSA 72:28, V, and who was honorably discharged, provided the person has provided the Town Clerk with satisfactory proof of these circumstances.

Chapter 170
VENDING CARTS

§ 170-1. Purpose.

§ 170-6. Duration of authorization.

§ 170-2. Definitions.

§ 170-7. Signage.

§ 170-3. Applicability.

§ 170-8. State approval.

§ 170-4. Location.

§ 170-9. Permit required.

§ 170-5. Density.

[HISTORY: Adopted by the Board of Selectmen of the Town of Conway 7-17-1990. Amendments noted where applicable.]

GENERAL REFERENCES

Amusements — See Ch. 16.

Parks and Town property — See Ch. 90.

Hawkers, peddlers and solicitors — See Ch. 62.

Special events — See Ch. 120.

§ 170-1. Purpose.

The purpose of these regulations is to provide a controlled means of allowing vending carts in the Town of Conway. Vending carts offer products and services to residents and visitors, but their uncontrolled proliferation could cause safety problems and could detract from the aesthetics and character of the Town.

§ 170-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

SIGNAGE — Any form of commercial message designed to attract attention, advertise, etc.

VENDING CART — A nonmotorized, wheeled cart, designed for pushing as the sole form of locomotion, and designed with the capacity to store food/beverage products and used for retailing such goods. If the primary product sold is not food/beverage products, then the cart shall not be considered a vending cart and shall be required to obtain site plan approval from the Town.

§ 170-3. Applicability.

Every vending cart operating in the Town of Conway shall be responsible for obtaining a permit pursuant to this chapter and shall be responsible for complying with these regulations and any additional terms of the permit.

§ 170-4. Location.

Vending carts are allowed only in locations which meet each of the following criteria:

- A. Vending carts shall be allowed only in the Commercial and Industrial Districts; and¹
- B. Vending carts shall not be located in areas subject to vehicular traffic (i.e., parking lots, roads, driveways, etc.); and
- C. Vending carts shall be permitted only on private property, with written authorization of the landowner provided at the time of application; and
- D. Vending carts shall comply with the following minimum setbacks from property borders:
 - (1) Village Commercial Districts:
 - (a) Front setback: zero feet.
 - (b) Side setback: zero feet.
 - (2) Highway Commercial District:
 - (a) Front setback: 25 feet.
 - (b) Side setback: 10 feet.

§ 170-5. Density.

One cart per lot shall be the maximum allowed, unless the lot has 300 or more feet of road frontage, in which case two vending carts shall be the maximum allowed.

§ 170-6. Duration of authorization.

Permits shall specify starting and ending dates, and the maximum duration shall not exceed six months.

§ 170-7. Signage.

Signage shall be restricted to message and communication instruments which are a physical part of the cart. No separate signs are permitted.

§ 170-8. State approval. ²

Vending cart operators shall have in their possession a valid vending permit from the New Hampshire Department of Health and Human Services.

§ 170-9. Permit required. ³

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

The operator shall secure a vending cart permit from the Board of Selectmen or its designated agent prior to commencement of operation. The operator shall complete the application form, which must be signed by both the operator and landowner. A fee in an amount set from time to time by the Board of Selectmen shall be paid at the time the application is submitted to the Town. Upon approval, the Board of Selectmen or its designated agent shall issue a permit, which shall be attached in a visible location on the vending cart.

Chapter 179

WIND ENERGY SYSTEMS

§ 179-1. Authority and purpose.

§ 179-5. Abandonment.

§ 179-2. Definitions.

§ 179-6. Violations.

§ 179-3. Review procedure.

§ 179-7. Penalties.

§ 179-4. Standards.

[HISTORY: Adopted by the Board of Selectmen of the Town of Conway 4-14-2009. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 23.

Zoning — See Ch. 190.

Site plan review — See Ch. 110.

§ 179-1. Authority and purpose.

This small wind energy systems ordinance is enacted in accordance with RSA 674:62 through 674:66, and the purposes outlined in RSA 672:1, III-a. The purpose of this chapter is to accommodate small wind energy systems in appropriate locations, while protecting the public's health, safety and welfare. In addition, this chapter provides a permitting process for small wind energy systems to ensure compliance with the provisions of the requirements and standards established herein.

§ 179-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

METEOROLOGICAL TOWER (MET TOWER) — Includes the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment for anemometers and vanes, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location. For the purpose of this chapter, "met towers" shall refer only to those whose purposes are to analyze the environmental factors needed to assess the potential to install, construct or erect a small wind energy system.

MODIFICATION — Any change to the small wind energy system that materially alters the size, type or location of the small wind energy system. Like-kind replacements shall not be construed to be a modification.

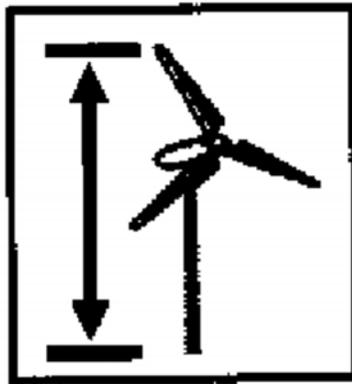
NET METERING — The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer's small wind energy system that is fed back into the electric distribution system over a billing period.

POWER GRID — The transmission system, managed by ISO New England, created to balance the supply and demand of electricity for consumers in New England.

SHADOW FLICKER — The visible flicker effect when rotating blades of the wind generator cast shadows on the ground and nearby structures, causing a repeating pattern of light and shadow.

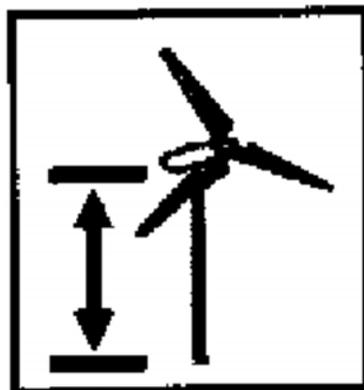
SMALL WIND ENERGY SYSTEM — A wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for on-site consumption.

SYSTEM HEIGHT — The vertical distance from ground level to the tip of the wind generator blade when it is at its highest point.



TOWER — The monopole, guyed monopole or lattice structure that supports a wind generator.

TOWER HEIGHT — The height above grade of the fixed portion of the tower, excluding the wind generator.



WIND GENERATOR — The blades and associated mechanical and electrical conversion components mounted on top of the tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

§ 179-3. Review procedure.

- A. Building permit. Small wind energy systems and met towers are an accessory use permitted in all zoning districts where structures of any sort are allowed. No small wind energy system shall be erected, constructed, or installed without first receiving a building permit from the Building Inspector. A building permit shall be required for any physical modification to an existing small wind energy system. Met towers that receive a building permit shall be permitted on a temporary basis, not to exceed three years from the date the building permit was issued.
- B. Application. Applications submitted to the Building Inspector shall contain a site plan with the following information:
- (1) Property lines and physical dimensions of the applicant's property.
 - (2) Location, dimensions, and types of existing major structures on the property.
 - (3) Location of the proposed small wind energy system, foundations, guy anchors and associated equipment.
 - (4) Tower foundation blueprints or drawings.
 - (5) Tower blueprints or drawings.
 - (6) Setback requirements as outlined in this chapter.
 - (7) The right-of-way of any public road that is contiguous with the property.
 - (8) Any overhead utility lines.
 - (9) Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.
 - (10) Small wind energy systems that will be connected to the power grid shall include a copy of the application for interconnection with their electric utility provider.
 - (11) Sound level analysis prepared by the wind generator manufacturer or qualified engineer.
 - (12) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the New Hampshire State Building Code.
 - (13) Evidence of compliance with or nonapplicability of Federal Aviation Administration requirements.
 - (14) List of abutters to the applicant's property.

- C. Abutter and regional notification. In accordance with RSA 674:66, the Building Inspector shall notify all abutters and the local governing body by certified mail upon application for a building permit to construct a small wind energy system. To be considered complete, the building permit application must be accompanied by a notarized abutters list prepared not more than five days prior to the submission of the application, mailing labels for each abutter and notification fees in an amount set from time to time by the Board of Selectmen. The public will be afforded 30 days to submit comments to the Building Inspector prior to the issuance of the building permit. The Building Inspector shall review the application for regional impacts per RSA 36:55. If the proposal is determined to have potential regional impacts, the Building Inspector shall follow the procedures set forth in RSA 36:57, IV.¹

§ 179-4. Standards.

The Building Inspector shall evaluate the application for compliance with the following standards:

- A. Setbacks. The setback shall be calculated by multiplying the minimum setback requirement number by the system height and measured from the center of the tower base to property line, public roads, or nearest point on the foundation of an occupied building.

Minimum Setback Requirements

Occupied Buildings on Participating Landowner Property	Occupied Buildings on Abutting Property	Property Lines of Abutting Property and Utility Lines	Public Roads
0	1.5	1.1	1.5

- (1) Small wind energy systems must meet all setbacks for principal structures for the zoning district in which the system is located.
- (2) Guy wires used to support the tower are exempt from the small wind energy system setback requirements.
- B. Tower. Notwithstanding the structure height restrictions prescribed in Chapter 190, Zoning, of the Conway Code, the maximum tower height shall be restricted to 35 feet above the tree canopy within 300 feet of the small wind energy system. In no situation shall the tower height exceed 135 feet.
- C. Sound level. The small wind energy system shall not exceed 55 decibels using the A scale (dBA), as measured at the site property line, except during short-term events such as severe wind storms and utility outages.
- D. Shadow flicker. Small wind energy systems shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is defined as more

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

than 30 hours per year on abutting occupied buildings. The applicant has the burden of proving that the shadow flicker will not have significant adverse impact on neighboring or adjacent uses. Potential shadow flicker will be addressed either through siting or mitigation measures.

- E. Signs. All signs, including flags, streamers and decorative items, both temporary and permanent, are prohibited on the small wind energy system, except for manufacturer identification or appropriate warning signs.
- F. Code compliance. The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code.
- G. Aviation. The small wind energy system shall be built to comply with all applicable Federal Aviation Administration regulations, including but not limited to 14 CFR Part 77, Subpart B, regarding installations close to airports, and the New Hampshire aviation regulations, including but not limited to RSA Ch. 422-b and RSA Ch. 424.
- H. Visual impacts. It is inherent that small wind energy systems may pose some visual impacts due to the tower height needed to access wind resources. The purpose of this subsection is to reduce the visual impacts, without restricting the owner's access to the optimal wind resources on the property.
 - (1) The applicant shall demonstrate through project site planning and proposed mitigation that the small wind energy system's visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to, information regarding site selection, wind generator design or appearance, buffering, and screening of ground-mounted electrical and control equipment. All electrical conduits shall be underground, except when the financial costs are prohibitive.
 - (2) The color of the small wind energy system shall either be the stock color from the manufacturer or painted with a nonreflective, unobtrusive color that blends in with the surrounding environment. Approved colors include but are not limited to white, off-white or gray.
 - (3) A small wind energy system shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the small wind energy system.
- I. Approved wind generators. The manufacturer and model of the wind generator to be used in the proposed small wind energy system must have been approved by the California Energy Commission or the New York State Energy Research and Development Authority, or a similar list approved by the State of New Hampshire, if available.
- J. Utility connection. If the proposed small wind energy system is to be connected to the power grid through net metering, it shall adhere to RSA 362-A:9.
- K. Access. The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of eight feet above the

ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

- L. Clearing. Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind energy system and as otherwise prescribed by applicable laws, regulations, and ordinances.

§ 179-5. Abandonment.

- A. At such time that a small wind energy system is scheduled to be abandoned or discontinued, the applicant will notify the Building Inspector by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.
- B. Upon abandonment or discontinuation of use, the owner shall physically remove the small wind energy system within 90 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the Building Inspector. "Physically remove" shall include, but not be limited to:
 - (1) Removal of the wind generator and tower and related above-grade structures.
 - (2) Restoration of the location of the small wind energy system to its natural condition, except that any landscaping, grading or below-grade foundation may remain in the same condition as at initiation of abandonment.
- C. In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous twelve-month period. After the 12 months of inoperability, the Building Inspector may issue a notice of abandonment to the owner of the small wind energy system. The owner shall have the right to respond to the notice of abandonment within 30 days from notice receipt date. After review of the information provided by the owner, the Building Inspector shall determine if the small wind energy system has been abandoned. If it is determined that the small wind energy system has not been abandoned, the Building Inspector shall withdraw the notice of abandonment and notify the owner of the withdrawal.
- D. If the owner fails to respond to the notice of abandonment or if, after review by the Building Inspector, it is determined that the small wind energy system has been abandoned or discontinued, the owner of the small wind energy system shall remove the wind generator and tower at the owner's sole expense within three months of receipt of the notice of abandonment. If the owner fails to physically remove the small wind energy system after the notice of abandonment procedure, the Building Inspector may pursue legal action to have the small wind energy system removed at the owner's expense, including recovery of all legal and other expenses incurred by this action.

§ 179-6. Violations.

It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with this chapter. Small wind energy systems installed prior to the

adoption of this chapter are exempt from this chapter except when modifications are proposed to the small wind energy system.

§ 179-7. Penalties.

Any person who fails to comply with any provision of this chapter or a building permit issued pursuant to this chapter shall be subject to enforcement and penalties as allowed by RSA 676:17.

Chapter 190

ZONING

- § 190-1. Title.
 - § 190-2. Authority.
 - § 190-3. Purpose.
 - § 190-4. Applicability.
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 - § 190-13. Residential/Agricultural (RA) District.
 - § 190-14. Center Conway Village Residential (CCVR) District.
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 - § 190-17. Center Conway Village Commercial (CCVC) District.
 - § 190-18. Conway Village Commercial (CVC) District.
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 - § 190-20. Highway Commercial (HC) District.
 - § 190-21. Regional Commercial (RC) District.
 - § 190-22. Industrial-1 (I1) District.
 - § 190-23. Industrial-2 (I2) District.
 - § 190-24. Recreational Resort (RR) District.
 - § 190-25. Mountain Conservation Overlay (MCO) District.
 - § 190-26. Floodplain Conservation Overlay (FCO) District.
 - § 190-27. Shoreline Protection Overlay (SPO) District.
 - § 190-28. Wetland and Watershed Protection Overlay (WWPO) District.
 - § 190-29. Groundwater Protection Overlay (GWPO) District.
 - § 190-30. Special Highway Corridor Overlay (SHCO) District.
 - § 190-31. Nonconformity.
 - § 190-32. Definitions.
- District Maps
- Permitted Use Table

[HISTORY: Adopted by the Town of Conway as last amended 4-9-2013. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Drainage systems — See Ch. 41.
 Excavations — See Ch. 47.
 Hazardous wastes — See Ch. 67.
 Sewers — See Ch. 105.
 Site plan review — See Ch. 110.
 Special events — See Ch. 120.

Streets and sidewalks — See Ch. 125.
 Subdivision of land — See Ch. 130.
 Wind energy systems — See Ch. 179.

§ 190-1. Title.

This chapter shall be known and may be cited as the "Zoning Ordinance of the Town of Conway, New Hampshire."

§ 190-2. Authority.

This chapter is enacted by the Town of Conway pursuant to the authority granted by the New Hampshire Legislature as stipulated in RSA 674:16, as amended.

§ 190-3. Purpose.

The purpose of this chapter is:

- A. To lessen congestion in the streets;
- B. To secure safety from fires, panic and other dangers;
- C. To promote health and the general welfare;
- D. To provide adequate light and air;
- E. To prevent the overcrowding of land;
- F. To avoid undue concentration of population;
- G. To facilitate the adequate provision of transportation, solid waste facilities, water, sewerage, schools, parks, child day care;
- H. To assure proper use of natural resources and other public requirements;
- I. To encourage the preservation of agricultural lands and buildings; and
- J. To encourage the installation and use of solar, wind, or other renewable energy systems and protect access to energy sources by the regulation of orientation of streets, lots, and buildings; establishment of maximum building height, minimum setback requirements, and limitations on type, height, and placement of vegetation; and encouragement of the use of solar skyspace easements under RSA Ch. 477.

§ 190-4. Applicability.

This chapter shall apply to:

- A. All buildings or structures erected, reconstructed, altered, enlarged, or relocated after the effective date of this chapter or applicable amendment;
- B. The use of any building, structure, or land which is different from its use prior to the effective date of this chapter or applicable amendment; and

- C. Any land which has been subdivided after the effective date of this chapter or applicable amendment.

§ 190-5. Interpretation.

In interpreting any provision of this chapter, it shall be held as the minimum requirement adopted for the promotion of the public health, safety, and general welfare of the Town. Whenever any provision of this chapter is at variance with any other provision of this chapter, or with the requirements of any other lawfully adopted rule or regulation, the most restrictive, or that imposing the highest standard, shall govern. [RSA 676:14] This chapter is constructed as a permissive zoning ordinance; if a use is not identified as a permitted use or a use permitted by special exception in a zoning district, then the use is not permitted in that zoning district.

§ 190-6. Enforcement; violations and penalties.

- A. It shall be the duty of the Board of Selectmen or its designated officer to:
- (1) Generally administer this chapter.
 - (2) Require a building permit prior to erection, alteration or demolition of any structure and certificate of compliance upon completion and prior to use.
- B. Violations and penalties.
- (1) Pursuant to RSA 676:17, any person who violates any of the provisions of RSA Title LXIV, Planning and Zoning, or any Town of Conway ordinance, code or regulation adopted under said title, or any provision or specification of any application, plat, or plan approved by or any requirement or condition of a permit or decision issued by any authorized local official or land use board:
 - (a) Shall be guilty of a misdemeanor if a natural person or guilty of a felony if any other person.
 - (b) Shall be subject to a civil penalty not to exceed the maximum allowable under RSA 676:17 for each day such violation is found to continue after the conviction date or after the date on which the violator receives written notice of the violation from the Town, whichever is earlier.
 - (c) The Town may also recover its costs and reasonable attorney's fees actually expended in pursuing the legal action, as well as seek reimbursement for the expenditure of public funds, if it is found to be a prevailing party in the action, pursuant to RSA 676:17, II and III.
 - (2) Pursuant to RSA 676:17-a, Cease and Desist Orders, the Building Inspector, Code Enforcement Officer, or other designated officer of the Board of Selectmen may issue a cease-and-desist order against any violation set forth in Subsection B(1)(a) above.

- (3) Pursuant to RSA 676:17-b, Land Use Citations, the Building Inspector, Code Enforcement Officer, or other designated officer of the Board of Selectmen may choose to charge the offense as a violation and issue a local land use citation and seek a civil penalty as set forth in RSA 676:17. The prosecuting official may also serve additional local land use citations, without giving additional written notice or appeal opportunity, if the facts or circumstances constituting the violation continue beyond the date or dates of any prior citation, pursuant to RSA 676:17-b, VII.¹
- (4) For trees removed in violation of this chapter, the violation and fine shall continue daily, with each day a separate violation until trees are replaced with equivalent trees.

§ 190-7. Zoning Board of Adjustment. ²

There shall be a five-person Zoning Board of Adjustment and up to five alternates appointed by the Selectmen, as provided by state statute, who may, upon application, review and decide on alleged errors in an administrative finding or grant of a variance to provide relief from hardship, provided that the proposed land use is in conformance and does not constitute a nuisance or hazard to the neighborhood.

§ 190-8. Compliance required.

All buildings and all land shall hereafter be used, laid out, constructed or altered only in conformity with the permitted uses and density requirements for the districts in which they are located.

§ 190-9. Lots in multiple districts.

If an existing lot of record falls into more than one zoning district and if 60% or more of that lot lies within a commercial district (CCVC, CVC, NCVC, HC), the regulation of that commercial district may, at the owner's option, apply to the entire lot. This amendment reaffirms that an existing lot of record is one which existed prior to the adoption of this chapter.

§ 190-10. Helicopters.

- A. No helicopter or other rotary-wing aircraft capable of a vertical take-off and landing profile may land or take-off in the Town of Conway, except for properly licensed helicopters providing medical and related evacuation services and emergency services essential to the public health and safety, such as search and rescue, firefighting, law enforcement and other related services. No landing or take-off of commercial scenic helicopter tours or chartered flights shall be allowed in the Town of Conway.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See Ch. A200, Zoning Board of Adjustment Procedures.

- B. The following may be allowed by special exception: The Zoning Board of Adjustment (ZBA) may approve helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term nature. No approval for a special exception under this section shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to the Town residents and their property.

§ 190-11. Utilities.

All utility systems shall be placed underground in conformity with the terms and specifications of the utility company involved.

§ 190-12. District regulations and permitted uses.

The following restrictions and provisions in §§ 190-13 through 190-30 are applicable for each district as indicated.

§ 190-13. Residential/Agricultural (RA) District.

The RA District is primarily designed to accommodate a compatible mixture of residential and agricultural uses at lower densities of approximately one unit or less per acre. These areas are generally without municipal sewer service and are not yet appropriate for development at higher densities. Land uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries and map.

- (1) Boundaries: all areas not designated otherwise herein as: the Center Conway Village Residential District, the Conway Village Residential District, the North Conway Village Residential District, the Center Conway Village Commercial District, the Conway Village Commercial District, the North Conway Village Commercial District, the Highway Commercial District, the Regional Commercial, the Industrial-1 District, the Industrial-2 District or the Recreational Resort District.³
- (2) Map. The RA District Map is included as an attachment to this chapter.

B. Lot size and density.

- (1) Lots serviced by a municipal water system and municipal sewerage system shall have at least 1/2 acre for the first unit that may be located thereon and at least 10,000 square feet for each additional unit on the same lot.
- (2) Lots serviced by a municipal water system shall have at least 1/2 acre for each unit that may be located thereon.

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (3) All other lots shall have at least one acre for each unit that may be located thereon.
- (4) Special exceptions.
 - (a) In order to preserve and safeguard Conway's older homes, but also allow for their conversion to multifamily dwellings, the Zoning Board of Adjustment may grant special exceptions for residential structures and accessory structures on the same conforming lot, provided that:
 - [1] Substantially all of the structure is at least 50 years old.
 - [2] Modification of the interior does not exceed four units.
 - [3] No significant changes to the exterior lines or architectural detail are made which would diminish the historical or architectural heritage of the structure.
 - [4] Adequate area is available for parking and sewage disposal.
 - [5] Accessory structures must have at least 300 square feet of living space per unit suitable for conversion to a dwelling unit and not conflict with the purpose and intent of this section.
 - (b) In order to help provide year-round rental housing, the Zoning Board of Adjustment may grant a special exception for one accessory apartment as an accessory use to an owner-occupied single-family dwelling on any size lot, subject to the following conditions:
 - [1] The accessory apartment is designed to ensure architectural compatibility with the neighborhood.
 - [2] Sufficient parking is located on site.
- C. Frontage. All lots must front on a state or Town highway with a Class I, II, III, IV or V classification, a private road constructed to Town standards as required by the Planning Board or a Class VI road proposed to be improved as stipulated by the Planning Board. To qualify as frontage, the lot must have access rights to the subject highway or road. The minimum distance for frontage on a road shall be:
 - (1) One hundred fifty feet.
 - (2) One hundred feet for lots which front entirely on cul-de-sacs which meet the design requirements set forth in Chapter 130, Subdivision of Land, and are approved by the Planning Board.
- D. Setbacks. The minimum front setback shall be 25 feet from a platted right-of-way or 100 feet from the platted right-of-way of North-South Road between the extension of the center line of Barnes Road and the center line of Depot Road, and the minimum side or back setback shall be 15 feet.
- E. Structure and building height. Structure height is restricted to achieve several purposes. The Town is economically dependent upon tourism and attracts visitors with its rural

character and mountainous setting. Maintaining the traditional scale and style of structures aids in preserving the character of the Town. Peaked roofs are encouraged because it is the traditional roof style in the Town. (Care has been taken to prepare language which does not unduly encourage the use of flat-roof buildings.) The height restriction keeps structures and buildings below treetop level, which is typically from 60 feet to 100 feet for mature maple, beech, birch and pine trees. Structure height below treetop level helps maintain the rural atmosphere and preserve the viewsheds throughout the Town. In addition, the height limit minimizes difficulty in providing fire protection. The following shall apply throughout the Town:

- (1) Structure height shall not exceed 55 feet for any structure.
- (2) Building height shall not exceed 45 feet.
- (3) Wireless communication facilities may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that the height is necessary to fulfill its function.
- (4) Church steeples may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:
 - (a) The space enclosed in the steeple is not usable floor space other than for the maintenance and structural purposes of the steeple.
 - (b) The height of the steeple is appropriate to the design and size of the church.

F. Signs.

- (1) Sign setbacks. Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 15 feet from all other property boundaries.
- (2) There shall be no more than one freestanding sign per lot.
- (3) Maximum sign height shall be eight feet.
- (4) Maximum sign width shall be six feet.
- (5) Message area shall not exceed three square feet for professional or home occupations, nor shall message area exceed 12 square feet for identification of any nonresidential use.
- (6) Sign content. The Town has no intention of restricting individual free speech, but the Town does recognize its right to place reasonable restrictions upon commercial speech. Further, the Town wishes to prevent excessive or unnecessary signage along road corridors. In keeping with this reasoning, off-site commercial signs shall be prohibited.
- (7) Signs in platted ROW. Except as otherwise permitted below, no signs shall be permitted within any platted right-of-way:

- (a) Special promotional banners that cross a public or private road, with a message area of 200 square feet or less, for public or institutional events.
 - (b) One directional sign to identify the entrance to a particular subdivision or development, not to exceed 12 square feet, and not to exceed eight feet in height nor six feet in width. For subdivisions which are approved by the Planning Board and which have nonresidential uses, this sign may identify businesses located within the subdivision.
- (8) Temporary event signage. In addition to signage otherwise permitted herein, temporary events may display up to 20 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:
- (a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;
 - (b) Maximum sign height shall be eight feet; and
 - (c) Maximum sign width shall be 10 feet.
- (9) Special event signage. In addition to signage otherwise permitted herein, special events may display up to 40 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:
- (a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;
 - (b) Maximum sign height shall be eight feet; and
 - (c) Maximum sign width shall be 10 feet.
- (10) Signs exempt from property line setbacks and no permit required:
- (a) Signs with a message area of one square foot or less which bear only property numbers, post office numbers, names of occupants of the premises, other noncommercial identification, or with one of the following messages: "open"; "closed"; "vacancy"; or "no vacancy."
 - (b) Directional signs with a message area of four square feet or less, to indicate entrance and/or exit driveways.
 - (c) Legal notices, such as "no trespassing" signs, with a message area of 12 square feet or less.
 - (d) Business name and directional signs with a message area of three square feet or less which are located over doorways. Such signs may project from the wall surface. **[Amended 4-14-2015 by Art. 3]**

- (e) Flags.
 - (f) Window signs which are affixed to the interior of the window, not to cover more than 50% of any window.
 - (g) One sign identifying lawn, garage or barn sales, with a message area of 12 square feet or less, to be erected not more than two days prior to the event and removed within one day of the end of the event.
 - (h) Sign for a government election, with time limits as specified in state law, or if no state law applies, then erected no more than 12 weeks prior to the election and removed within two weeks following the election.
 - (i) Nonilluminated sign advertising the sale or lease of the premises upon which the sign is located, with a message area of 16 square feet or less in all districts.
 - (j) Special promotional signs for public or institutional events, with a message area of 40 square feet or less.
 - (k) Directional signs to help locate facilities for disabled persons, with a message area not to exceed four square feet, as required for compliance with the Americans with Disabilities Act of 1990.
 - (l) A home occupation may display a nonilluminated outdoor sign not exceeding three square feet in size.
 - (m) One real estate sign to identify lots for sale at each entrance to the subdivision in which the subject lots are located, not to exceed 12 square feet, and not to exceed eight feet in height nor six feet in width. **[Added 4-14-2015 by Art. 4]**
- (11) Signs subject to property line setbacks and no permit required:
- (a) For a religious institution, nonprofit organization, public service agency, public school or municipal building, one announcement board, with a message area of 12 square feet or less.
 - (b) For fraternal or social clubs, local service and philanthropic organizations to identify meeting locations, one sign with a message area of three square feet or less.
 - (c) Signs in parking lots to identify aisles, handicapped spaces, and reserved spaces.
 - (d) For construction in progress, one sign identifying the owner, architect, contractor and/or developer, to be removed within one month of completion of the project, with a message area of 12 square feet or less.
 - (e) Signs which convey only a noncommercial message, including but not limited to ideological, political, social, cultural, or religious messages, with a message area of 12 square feet or less.

- (12) Permit required for all other signs.
- (a) Sign application process. Any action requiring a sign permit shall be permitted only upon the application to, and approval of, the Zoning Officer. Applications shall use the following process:
- [1] An application form for each sign shall be completed and signed by the owner of the property.
 - [2] A complete application shall also include the following:
 - [a] Fee as set from time to time by the Board of Selectmen;⁴
 - [b] Written description of the proposed type, size, height, setback, sign and supporting structure materials, and illumination of the sign;
 - [c] Statement specifically addressing compliance with off-site commercial sign restrictions; and
 - [d] Analysis regarding impact of safety, specifically addressing lighting/glare and line-of-sight blockage for vehicles and pedestrians.
 - [3] Upon receipt of a complete application, the Zoning Officer shall have up to 14 days to either approve or deny the application.
 - [4] If the application is denied, the Zoning Officer shall issue a written decision stating the reason(s) for denial.
 - [5] If the application is approved, the Zoning Officer shall issue an approval for the erection of a sign. The sign permit is valid for one year from date of approval. If the sign is not erected within one year, the permit shall expire.
- (13) Design standards. The following design standards shall be required to ensure compliance with the intent of these regulations:
- (a) Illumination. Signs shall not be illuminated from within; signs may be illuminated only by external light. Lighting shall be affixed to and, for dimensional purposes, considered part of the sign structure. Lighting shall be located, directed and/or shielded such that it only sheds light downward and is limited to the message display area. Lighting sources shall be metal halide or halogen and located, directed and/or shielded such that no direct light emissions are visible at any point along the property boundary, nor shall they in any way be distracting to vehicular traffic.
 - (b) Neon. Neon lighting shall be prohibited.
 - (c) Motion. Moving signs, or signs which give the appearance of motion, shall be prohibited.

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (d) Flashing/Blinking. Flashing, blinking, alternating-type or digital-type lighting, such as a digital message board, shall be prohibited.
 - (e) Structural supports and base. The support and base structure of a sign shall not exceed 50% of the maximum permitted message area of the sign. Such supports and base shall be measured on the single side or face having the greatest surface area. If the sign structural supports and base are made of wood, brick and/or stone, with only incidental use of other materials, the structure/base size limit shall be increased to 100% of the maximum permitted message area of the sign. The top of the supporting structure of a freestanding sign shall extend no farther above the top of the message area than 1/3 of the maximum permitted height of the message area.
 - (f) No sign shall project over a street or sidewalk, except for projecting signs as permitted herein.
 - (g) No sign shall be placed in such a position as to endanger vehicular or pedestrian traffic by obstructing a clear view, by causing confusion with government signs and signals, or by any other means.
- (14) Movable signs. Movable signs shall be prohibited. No vehicle, including parts thereof, trailers, and other accessories, shall be used as a means of circumventing the purpose and intent of this chapter. A vehicle displaying a commercial message which is licensed, registered and inspected shall be exempt from these sign regulations if it is regularly and customarily used to transport persons or property for the business.
- (15) Flags, banners, pennants, etc.
- (a) In addition to the signs otherwise permitted by this chapter, there may be displayed, on any lot, up to three flags displaying any otherwise legal symbol, message or information, commercial or noncommercial; except that off-site commercial flags shall be restricted as set forth in this chapter. No such flag shall exceed 24 square feet measured by one face of the flag only. Any such flag shall be mounted directly to one flagpole. A "flagpole" is a pole intended and placed solely for the support and display of a flag or flags, and does not include utility poles, light poles, trees or other sign structures. All flagpoles shall be erected vertically or within 45° of the vertical. No portion of any flagpole shall be sited within 10 feet of a property line. No flagpole shall extend more than 35 feet in height above grade or, if mounted on a building, 55 feet above the average finished grade of the building.
 - (b) Banners, feather flags, pennants, searchlights, twirling signs, balloons or other gas-filled figures, and other such materials shall be prohibited, except as specified herein. **[Amended 4-14-2015 by Art. 2]**
 - (c) This subsection shall not be construed to prevent any sign otherwise permitted by this chapter, and which conforms to all sign requirements of this chapter, from taking the form of a flag or other fabric. Banners may be used to cover part or all of an existing freestanding, projecting or wall sign to

advertise temporary events. The net effect of this activity shall not increase the message area of any permitted sign or signs.

- (16) Maintenance. All surfaces and supporting structures of signs, whether erected prior to the effective date of this chapter or not, shall be maintained in a safe and sightly condition to the satisfaction of the Board of Selectmen or its authorized agent. A permit is required for any maintenance except the following: repainting; other surface renewal; or change of message on the same surface.
- G. Restrictions regarding home occupations. A home occupation is considered accessory to a residential use and shall not occupy an area greater than 50% of the total floor area of the residential unit or 1,500 square feet, whichever is less. Home occupations are subject to the following provisions and restrictions:
- (1) The home occupation shall be carried on by persons who live in the principal residential unit full time. Two employees living off-premises are permitted.
 - (2) The home occupation shall be carried on within the principal residential unit or an approved accessory structure.
 - (3) Exterior storage of commercial vehicles, equipment or materials or variation from the residential character of the principal residential unit shall not be permitted.
 - (4) The home occupation shall create no unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or other nuisance or threat to the health of the abutters.
 - (5) Adequate off-street parking shall be provided.
 - (6) A home occupation shall not generate excessive traffic or traffic in greater volumes than would normally be expected in a residential neighborhood.
 - (7) A change-of-use permit to operate a home occupation is required before startup of operation.
 - (8) Retail or wholesale sales are only permitted for those items raised or made on the premises.
 - (9) A home occupation shall not be offensive to the character of the neighborhood or decrease abutting property values.
- H. Farm and nursery stands. Farm and nursery stands for selling indigenous produce or plants are considered temporary structures and are permitted, provided that:
- (1) Farm stands shall not exceed 1,200 square feet of gross floor area unless granted site plan review approval by the Planning Board.⁵
 - (2) Three off-street parking spaces shall be required to be provided for structures up to 100 square feet in size. Additional parking shall be required at the rate of one space per 200 square feet over 100 square feet.

5. Editor's Note: See Ch. 110, Site Plan Review.

- (3) Wall signs shall not exceed 10 square feet in size. One portable A-frame sign per lot, not to exceed six square feet, shall be allowed to be displayed during business hours only.
 - (4) All structures, parking areas and signs shall meet the setback requirements established herein.
- I. Yard sales. Yard sales shall be permitted, provided that no one household holds sales on more than six days per calendar year.⁶
- J. Mobile homes, travel trailers and recreational vehicles.
- (1) One mobile home used as a residential unit is permitted on a lot in the Residential/Agricultural District.
 - (2) A mobile home, travel trailer or recreational vehicle may be permitted on the site of a construction project for one year, provided that it is a necessary convenience for the construction project and that no public safety or health hazards shall be created.
 - (3) One travel trailer or recreational vehicle may be stored on a lot, provided that it is not utilized for dwelling purposes.
 - (4) All mobile homes permitted under this subsection must be connected to a sewerage system and water source, both meeting minimum local and State of New Hampshire standards, as applicable and then promulgated; such systems shall be approved by the Selectmen or their designated agent and be maintained so as not to cause a health or sanitation hazard.
- K. Special exceptions. The following land uses shall be allowed if granted a special exception by the Zoning Board of Adjustment:
- (1) Nursing homes. In order to protect existing property owners in the Residential/Agricultural District against a new use nearby which may be incompatible or undesirable but also allow for nursing homes with acceptable accessory commercial uses such as gift shops, flower shops and candy shops, which are restricted to on-premises facilities, the Zoning Board of Adjustment may grant a special exception for nursing homes in the Residential/Agricultural District, provided that:⁷
 - (a) The nursing home development is architecturally compatible with the surrounding neighborhood;
 - (b) Traffic access to and from the development will not alter the character of the neighborhood;
 - (c) Lighting will be of such design as not to disturb the tranquility of the neighborhood;

6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

7. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (d) Outpatient and day-care facilities operate during reasonable hours;
 - (e) The facility will not operate as a crisis center for drug addiction, alcoholism or the mentally disturbed;
 - (f) Accessory commercial space on premises for the sole purpose of the nursing home occupants and employees will be operated and managed by the nursing home owners, and the same space will not be leased to outside businesses;
 - (g) The nursing home structure shall not exceed two stories in height above grade;
 - (h) The maximum density allowed is 16 beds per acre; and
 - (i) The land to be developed for such use contains no less than five acres.
- (2) Charitable fund-raising events. A special exception may be granted for charitable fund-raising events operated by or on behalf of nonprofit organizations having a federal tax exemption, provided that:
- (a) The event is not offensive to the character of the neighborhood;
 - (b) The event is for a brief, predetermined length or duration not to exceed three consecutive days; and
 - (c) The event complies with the guidelines and procedures for review of license applications for special events in the Town of Conway, as prescribed by the Conway Board of Selectmen.⁸
- (3) Private educational facilities. A special exception may be granted to permit private educational facilities, with or without accessory uses, provided that:
- (a) Traffic access to and from the facility will not alter the character of the abutting residential neighborhood;
 - (b) The development is architecturally compatible with the height, scale, color and detail of the surrounding residential neighborhood; and
 - (c) The proposed facility will not adversely affect abutting properties by reason of undue light, noise, density of use, or other nuisance.
- (4) Day-care centers. A special exception may be granted to home-based day-care centers serving seven people to 15 people and other non-home-based centers, regardless of the number of people served, provided that:
- (a) Traffic access to and from the development will not alter the character of the abutting residential neighborhood;
 - (b) The development is architecturally compatible with the height, scale, color and detail of the surrounding residential neighborhood;

8. Editor's Note: See Ch. 120, Special Events.

- (c) Site plan approval or a site plan exemption is granted by the Planning Board; and
 - (d) The size of the lot is appropriate to provide green space and play areas.
- (5) Commercial golf facilities. A special exception may be granted for traditionally full-sized golf courses and those accessory uses traditionally associated with this primary use, such as a clubhouse with a lounge and restaurant facility, professional shop, golf practice range, tennis courts and swimming pools, but not to include miniature golf, provided that the specific site is an appropriate location for such use, not only in context with the land to be dedicated to such use but in context with the surrounding land uses as well. The applicant shall dedicate a specific parcel(s) to the proposed facility, which shall not be used for residential density. In order to determine this, the following criteria shall be evaluated:
- (a) Property values. The applicant shall present information by a certified appraiser indicating that there will be no negative impact on abutting properties as a result of the proposed special exception;
 - (b) Traffic. No traffic hazard will be created and traffic access will not alter the character of the neighborhood. The main access point shall be from an arterial road or collector road and not from neighborhood streets. The Zoning Board of Adjustment may consider the comments of the Town Planning Director in evaluating the traffic study. A traffic study shall be completed that shows the impact of the proposed development in its entirety on the nearest signalized intersection(s). For intersections that are of an overall level of service (herein "LOS") C or better, the LOS at the nearest signalized intersection(s) shall not fall below LOS C during the a.m. and p.m. peak hours as a result of the development. If LOS C cannot be maintained, the applicant shall make such changes as are necessary to bring the intersection to LOS C, provided that such improvements are acceptable to the Zoning Board of Adjustment. The applicant may choose to reduce the development so as to produce an acceptable LOS. If the LOS is already below C (D, E or F), the project shall only be approved if the LOS is brought up to D. The applicant may choose to reduce the development so as to produce an acceptable LOS;⁹
 - (c) Nuisance/Hazards. The Zoning Board of Adjustment shall review the operation of the development, including noise, odors and any hazards associated with the use and location. If the Zoning Board of Adjustment determines that any hazards or nuisances cannot be overcome and are not customarily found in a residential neighborhood, the proposed use shall be denied;
 - (d) Adequacy of private/municipal facilities. The Zoning Board of Adjustment shall review the proposed facilities, including drainage, sewer/septic, water, electric and other utilities, to ensure adequate provisions to meet the needs of

9. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

the proposed development. It may consider the opinion of the Town Engineer in making this determination;

- (e) Design and architecture. The design and architecture of the proposed structure shall be reviewed by the Zoning Board of Adjustment to determine its compatibility with abutting residential structures. The scale, height, color and detail shall be similar to and/or aesthetically compatible with residential structures;
 - (f) Lighting. The lighting plan shall be submitted to the Zoning Board of Adjustment for approval. No direct glare shall be permitted. Parking areas and walkways may be illuminated by luminaires so hooded or shielded as to not extend significantly beyond the parking and walkway areas;
 - (g) Hours of operation. Hours of operation will be appropriate so as to not interfere with the abutting residential neighborhood by means of excess traffic in off-peak hours, unscreened lighting that disturbs residential uses and other factors that make the facility different from a residential neighborhood; and
 - (h) Buffer. A perimeter buffer area adjacent to all abutting properties shall be left undisturbed if wooded and, if open, shall be planted with dense evergreen plantings. It shall be 100 feet in depth at a minimum unless a greater buffer is required by the Zoning Board of Adjustment due to the intensity of the use and interference with adjacent properties.¹⁰
 - (i) Site plan. Site plan approval by the Planning Board is also required.¹¹
- (6) Resort hotel. A special exception may be granted for a resort hotel and those uses traditionally associated with this use, provided that:
- (a) The resort hotel is constructed on and in conjunction with a commercial golf facility or with another recreational/resort use on the supporting acreage;
 - (b) The minimum lot size for the lot supporting the combined commercial golf course and resort hotel shall be 200 acres, exclusive of that acreage that falls within the Wetlands Conservation District;
 - (c) To the extent not previously satisfied in an approval for a commercial golf facility, the resort hotel and its site will comply with all of the conditions required for a commercial golf facility;
 - (d) In addition to the buffer area required for commercial golf courses, the resort hotel building(s) shall be set back no closer than 1,000 feet to the boundary line of any other unaffiliated lot or roadway (An "unaffiliated lot or roadway" is a lot or roadway not owned or controlled by the applicant or its principals.); and

10. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

11. Editor's Note: See Ch. 110, Site Plan Review.

- (e) The number of guest rooms in the resort hotel will be dependent upon the acreage allocated to the combined facility/resort hotel lot, at a ratio of two acres per guest room.
- (7) Post offices. A special exception may be granted to permit a publicly or privately owned post office, provided that:
- (a) Traffic access to and from the site will not alter the character of the abutting residential neighborhood;
 - (b) The post office is architecturally compatible with the surrounding residential district;
 - (c) The proposed facility will not adversely affect abutting properties by reason of undue light, noise, density of use or decreased property values;
 - (d) No portion of the building may be used for any purpose other than a post office;
 - (e) At such time as the facility ceases to be used as a post office, the building and improvements shall either be razed or converted to a use allowed in the district; and
 - (f) The minimum dimensional lot requirements (lot size, setbacks, frontage, etc.) may be increased by either the Zoning Board of Adjustment or the Planning Board if it is found that the aforementioned criteria cannot be met using minimum dimensional requirements.
- (8) Heliports. A special exception may be granted to permit private/noncommercial heliports as an accessory to any approved use. The requirement for a special exception to be granted under this subsection shall not be applied to the use of helicopters, or any other type of aircraft, being used on a temporary basis for such purposes as emergency response, medical necessity, ongoing construction projects that have been permitted by the Town of Conway, or temporary (fewer than seven days) news media coverage. Before a special exception for a heliport can be granted by the Zoning Board of Adjustment, the following conditions must be met:
- (a) The use of the site for a heliport shall not be offensive to the character of the neighborhood;
 - (b) The use of the site for a heliport shall not decrease abutting property values. Evidence supporting property values must be submitted by any party with an interest in the granting of the special exception from a creditable source that is knowledgeable of land evaluation and property values;
 - (c) Any site being considered to contain a heliport must be, at a minimum, five acres in size;
 - (d) Other site dimensions, above and beyond the overall acreage requirement listed above, shall be sufficient to provide safety areas suitable to meet all FAA-suggested dimensions and requirements;

- (e) Before the Zoning Board of Adjustment considers any application for a special exception for this land use, all federal and state approvals which are required must be obtained by the applicant, with copies of these approvals submitted as part of the request for special exception; and
 - (f) A major site plan approval shall be required of the applicant from the Planning Board for the heliport, which is accessory to an approved business. As a condition for the granting of the special exception, no use of the heliport may be engaged by the applicant until all conditions of the special exception, including a major site plan approval, have been satisfied by the applicant.¹²
- (9) A special exception may be granted for helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term nature. No approval for a special exception shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to Town residents and their property.
- (10) Business development parks. A special exception may be granted for a business development park that provides educational and technical assistance as well as incubation space and infrastructure for new and existing business development, including roads, buildings, and other necessary infrastructure within the Residential/Agricultural District, provided the following conditions are satisfied:
- (a) The subject property must have some of its boundary within or contiguous with the boundary of a Highway or Village Commercial District.¹³
 - (b) Arterial road. The business development park must front on and access an existing arterial road.
 - (c) Setbacks. The minimum front, side and rear setbacks from all adjacent properties and roads shall be 100 feet.
 - (d) Parking lots. Parking lots shall not exceed 20,000 square feet in gross area.
 - (e) Nuisances; hazards. The applicant must demonstrate that the operations of the business development park, including noise, odors and any other expected hazards associated with the development, are consistent with that of a residential neighborhood.
 - (f) Property values. The applicant shall provide a comprehensive report, by an appraiser licensed by the State of New Hampshire, which demonstrates that there will be no negative impact on abutting properties. This report shall be reviewed and comments will be provided by the Town Assessor.

12. Editor's Note: See Ch. 110, Site Plan Review.

13. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (g) Traffic study. The applicant must provide a traffic study, certified by a qualified engineer licensed by the State of New Hampshire, which clearly indicates the traffic impacts that would result from the project and improvements to the existing transportation infrastructure that would be necessary to ensure appropriate access and level of service. This report shall be reviewed and comments will be provided by the Town Engineer.
 - (h) Buffer. A perimeter buffer area adjacent to all abutting properties and streets shall be left in its undisturbed natural state or, if disturbed, shall be replanted with indigenous species. The minimum buffer depth shall be 100 feet.
 - (i) Recreation use. The business development park will construct a passive and active recreation trail system within the project for use by tenants of the business development park and the public. The trail system shall provide links to other existing or future publicly accessible trails adjacent to the property. The rate of trail system construction shall be, at least, consistent with the rate of development of the business development park. The recreation trails may cross the buffer only to connect with existing or future publicly accessible trails on adjacent properties and if they do not impair the effectiveness of the buffer.
 - (j) Green space. Green space shall comprise not less than 35% of the total lot area, exclusive of wetlands, water bodies, the one-hundred-year floodplain and slopes over 25%.
- (11) Kennels. A special exception may be granted to permit kennels for transient (fewer than 30 days) housing of domestic animals or commercial breeding facilities for domestic animals, provided that:
- (a) The minimum lot size is two acres.
 - (b) Animal housing areas, if indoors, shall be set back 40 feet from side and rear property lines and 60 feet from rights-of-way. Pastures/Outdoor exercise areas shall be set back 15 feet from any property line.
 - (c) A written plan for the disposal/removal of animal waste must be submitted along with the application requesting the special exception from the Zoning Board of Adjustment. This plan must be approved by the Board as a condition of the special exception approval, if granted.
 - (d) All animals shall be kept in an indoor area between the hours of 6:00 p.m. and 8:00 a.m.
- (12) Wireless communication facilities. Wireless communication facilities may be allowed by special exception in the Residential/Agricultural District, on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:
- (a) Since the visual impact of wireless communication facilities can transcend Town lines, communities that may be visually affected shall be formally

notified of applications for such proposed facilities as projects having regional impact.

- (b) The applicant must demonstrate that every reasonable effort has been made to cause the facility to have the least possible visual impact on the Town at large, including demonstration of realistic analysis of multiple sites, the need for the proposed height, and any impact on significant roadside viewpoints.
 - (c) Any wireless communication facility shall be designed to accommodate multiple providers of communication services and will only be approved under the condition that the primary developer of the facility will make the facility available upon reasonable terms, by lease or other legal instruments, to other wireless communication services.
 - (d) The Board of Adjustment may request detailed plans from the applicant and may, at the expense of the applicant, engage the services of professional consultants to review and comment on the proposal, and testimony of the applicants or their agents relating thereto.
 - (e) Major site plan approval must be obtained from the Planning Board.¹⁴
- (13) Mobile homes. The Zoning Board of Adjustment may grant a special exception for a mobile home on a lot on which a single-family residential structure exists if the following conditions are met:
- (a) The mobile home shall be occupied only as the usual residence of the immediate family, including grandparents, parents and children, of the owner and/or spouse of the primary single-family residential structure on the lot, and the lot shall be at least one acre if served by municipal water and sewerage and at least two acres in all other cases; or the mobile home shall be occupied as the usual residence of a full-time agricultural employee and his immediate family, and the single-family residence shall be part of an owner-operated farm of 25 acres or more.
 - (b) The special exception shall terminate on a change of ownership or occupancy of either the mobile home or the primary residential structure.
 - (c) A permit shall be obtained from the Selectmen or their agent, which shall be renewed yearly to ensure compliance with the above conditions.

§ 190-14. Center Conway Village Residential (CCVR) District.

The CCVR District is primarily designed to accommodate a compatible mixture of residential and agricultural uses at lower densities of approximately one unit or less per acre. These areas are generally without municipal sewer service and are not yet appropriate for development at higher densities. Uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

14. Editor's Note: See Ch. 110, Site Plan Review.

A. District boundaries and map.

- (1) The CCVR District shall have the following bounds (Map and Parcel numbers refer to 2003 Town of Conway Tax Maps): commencing at the point where the southern boundary of the former Maine Central Railroad ROW (Map 219, Parcel 211) intersects Mill Brook (the outlet of Conway Lake); running southwesterly along the thread of the brook to the center line of Mill Street; then running northerly along the center line of Mill Street to the northeast corner of Map 268, Parcel 163;

Then running westerly along the northern boundary of Tax Map 268, Parcel 163 to the boundary of Map 267, Parcel 14; then running northerly and westerly along the boundary of Map 267, Parcel 14 to the southwest corner of Map 260, Parcel 34; then running northerly along the western boundary of Map 260, Parcel 34 to the southeast corner of Map 260, Parcel 40; then running northerly along the eastern boundary of Map 260, Parcel 40 to the center line of Route 302;

Then running easterly along the center line of Route 302 to the southeastern corner of Map 259, Parcel 14; then running northeasterly along the boundary of Map 259, Parcel 14 to the western boundary of Map 259, Parcel 19; then running northwesterly along the boundary of Map 259, Parcel 19 to the southern boundary of the former Maine Central Railroad ROW (Map 219, Parcel 211); then easterly along the southern boundary of the ROW (Map 219, Parcel 211) back to the point of commencement.

- (2) District map. The CCVR District Map is included as an attachment to this chapter.

B. Lot size and density.

- (1) Lots serviced by a municipal water system and municipal sewerage system shall have at least 1/2 acre for the first unit that may be located thereon and at least 10,000 square feet for each additional unit on the same lot.
- (2) Lots serviced by a municipal water system shall have at least 1/2 acre for each unit that may be located thereon.
- (3) All other lots shall have at least one acre for each unit that may be located thereon.
- (4) Special exceptions.
 - (a) In order to preserve and safeguard Conway's older homes, but also allow for their conversion to multifamily dwellings, the Zoning Board of Adjustment may grant special exceptions for residential structures and accessory structures on the same conforming lot, provided that:
 - [1] Substantially all of the structure is at least 50 years old.
 - [2] Modification of the interior does not exceed four units.
 - [3] No significant changes to the exterior lines or architectural detail are made which would diminish the historical or architectural heritage of the structure.

- [4] Adequate area is available for parking and sewage disposal.
 - [5] Accessory structures must have at least 300 square feet of living space per unit suitable for conversion to a dwelling unit and not conflict with the purpose and intent of this section.
- (b) In order to help provide year-round rental housing, the Zoning Board of Adjustment may grant a special exception for one accessory apartment as an accessory use to an owner-occupied single-family dwelling, on any size lot, subject to the following conditions:
- [1] The accessory apartment is designed to ensure architectural compatibility with the neighborhood.
 - [2] Sufficient parking is located on site.
- C. Frontage. All lots must front on a state or Town highway with a Class I, II, III, IV or V classification, a private road constructed to Town standards as required by the Planning Board or a Class VI road proposed to be improved as stipulated by the Planning Board. To qualify as frontage, the lot must have access rights to the subject highway or road. The minimum distance for frontage on a road shall be:
- (1) One hundred fifty feet.
 - (2) One hundred feet for lots which front entirely on cul-de-sacs which meet the design requirements set forth in Chapter 130, Subdivision of Land, Article X, Detail #4, and approved by the Planning Board.
- D. Setbacks. The minimum front setback shall be 25 feet, and the minimum side or back setback shall be 15 feet.
- E. Structure and building height. Structure height is restricted to achieve several purposes. The Town is economically dependent upon tourism and attracts visitors with its rural character and mountainous setting. Maintaining the traditional scale and style of structures aids in preserving the character of the Town. Peaked roofs are encouraged because it is the traditional roof style in the Town. (Care has been taken to prepare language which does not unduly encourage the use of flat-roof buildings.) The height restriction keeps structures and buildings below treetop level, which is typically from 60 feet to 100 feet for mature maple, beech, birch and pine trees. Structure height below treetop level helps maintain the rural atmosphere and preserve the viewsheds throughout the Town. In addition, the height limit minimizes difficulty in providing fire protection. The following shall apply throughout the Town:
- (1) Structure height shall not exceed 55 feet for any structure, except wind energy systems permitted in accordance with Chapter 179 of the Conway Code.¹⁵
 - (2) Building height shall not exceed 45 feet.

15. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (3) Wireless communication facilities may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that the height is necessary to fulfill their function.
- (4) Church steeples may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:
 - (a) The space enclosed in the steeple is not usable floor space other than for the maintenance and structural purposes of the steeple.
 - (b) The height of the steeple is appropriate to the design and size of the church.

F. Signs.

- (1) Sign setbacks. Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 15 feet from all other property boundaries.
- (2) There shall be no more than one freestanding sign per lot.
- (3) Maximum sign height shall be eight feet.
- (4) Maximum sign width shall be six feet.
- (5) Message area shall not exceed three square feet for professional or home occupations, nor shall message area exceed 12 square feet for identification of any nonresidential use.
- (6) Sign content. The Town has no intention of restricting individual free speech, but the Town does recognize its right to place reasonable restrictions upon commercial speech. Further, the Town wishes to prevent excessive or unnecessary signage along road corridors. In keeping with this reasoning, off-site commercial signs shall be prohibited.
- (7) Signs in platted ROW. Except as otherwise permitted below, no signs shall be permitted within any platted right-of-way.
 - (a) Special promotional banners that cross a public or private road, with a message area of 200 square feet or less, for public or institutional events.
 - (b) One directional sign to identify the entrance to a particular subdivision or development, not to exceed 12 square feet, and not to exceed eight feet in height nor six feet in width. For subdivisions which are approved by the Planning Board and which have nonresidential uses, this sign may identify businesses located within the subdivision.
- (8) Temporary event signage. In addition to signage otherwise permitted herein, temporary events may display up to 20 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

- (a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;
 - (b) Maximum sign height shall be eight feet; and
 - (c) Maximum sign width shall be 10 feet.
- (9) Special event signage. In addition to signage otherwise permitted herein, special events may display up to 40 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:
- (a) Signs shall be set back a minimum of five feet from a platted right-of-way and signs shall be set back a minimum of 10 feet from all other property boundaries;
 - (b) Maximum sign height shall be eight feet; and
 - (c) Maximum sign width shall be 10 feet.
- (10) Signs exempt from property line setbacks and no permit required:
- (a) Signs with a message area of one square foot or less which bear only property numbers, post office numbers, names of occupants of the premises, other noncommercial identification, or with one of the following messages: "open"; "closed"; "vacancy"; or "no vacancy."
 - (b) Directional signs with a message area of four square feet or less, to indicate entrance and/or exit driveways.
 - (c) Legal notices, such as "no trespassing" signs, with a message area of 12 square feet or less.
 - (d) Business name and directional signs with a message area of three square feet or less which are located over doorways. Such signs may project from the wall surface. **[Amended 4-14-2015 by Art. 3]**
 - (e) Flags.
 - (f) Window signs which are affixed to the interior of the window, not to cover more than 50% of any window.
 - (g) One sign identifying lawn, garage or barn sales, with a message area of 12 square feet or less, to be erected not more than two days prior to the event and removed within one day of the end of the event.
 - (h) Sign for a government election, with time limits as specified in state law, or if no state law applies, then erected no more than 12 weeks prior to the election and removed within two weeks following the election.

- (i) Nonilluminated sign advertising the sale or lease of the premises upon which the sign is located, with a message area of 16 square feet or less in all districts.
 - (j) Special promotional signs for public or institutional events, with a message area of 40 square feet or less.
 - (k) Directional signs to help locate facilities for disabled persons, with a message area not to exceed four square feet, as required for compliance with the Americans with Disabilities Act of 1990.
 - (l) A home occupation may display a nonilluminated outdoor sign not exceeding three square feet in size.
 - (m) One real estate sign to identify lots for sale at each entrance to the subdivision in which the subject lots are located, not to exceed 12 square feet, and not to exceed eight feet in height nor six feet in width. **[Added 4-14-2015 by Art. 4]**
- (11) Signs subject to property line setbacks and no permit required:
- (a) For a religious institution, nonprofit organization, public service agency, public school or municipal building, one announcement board, with a message area of 12 square feet or less.
 - (b) For fraternal or social clubs, local service and philanthropic organizations to identify meeting locations, one sign with a message area of three square feet or less.
 - (c) Signs in parking lots to identify aisles, handicapped spaces, and reserved spaces.
 - (d) For construction in progress, one sign identifying the owner, architect, contractor and/or developer, to be removed within one month of completion of the project, with a message area of 12 square feet or less.
 - (e) Signs which convey only a noncommercial message, including but not limited to ideological, political, social, cultural, or religious messages, with a message area of 12 square feet or less.
- (12) Permit required for all other signs.
- (a) Sign application process. Any action requiring a sign permit shall be permitted only upon the application to, and approval of, the Zoning Officer. Applications shall use the following process:
 - [1] An application form for each sign shall be completed and signed by the owner of the property.
 - [2] A complete application shall also include the following:

- [a] Fee as set from time to time by the Board of Selectmen;¹⁶
 - [b] Written description of the proposed type, size, height, setback, sign and supporting structure materials, and illumination of the sign;
 - [c] Statement specifically addressing compliance with off-site commercial sign restrictions; and
 - [d] Analysis regarding impact of safety, specifically addressing lighting/glare and line-of-sight blockage for vehicles and pedestrians.
- [3] Upon receipt of a complete application, the Zoning Officer shall have up to 14 days to either approve or deny the application.
 - [4] If the application is denied, the Zoning Officer shall issue a written decision stating the reason(s) for denial.
 - [5] If the application is approved, the Zoning Officer shall issue an approval for the erection of a sign. The sign permit is valid for one year from date of approval. If the sign is not erected within one year, the permit shall expire.
- (13) Design standards. The following design standards shall be required to ensure compliance with the intent of these regulations:
- (a) Illumination. Signs shall not be illuminated from within; signs may be illuminated only by external light. Lighting shall be affixed to and, for dimensional purposes, considered part of the sign structure. Lighting shall be located, directed and/or shielded such that it only sheds light downward and is limited to the message display area. Lighting sources shall be metal halide or halogen and located, directed and/or shielded such that no direct light emissions are visible at any point along the property boundary, nor shall they in any way be distracting to vehicular traffic.
 - (b) Neon. Neon lighting shall be prohibited.
 - (c) Motion. Moving signs, or signs which give the appearance of motion, shall be prohibited.
 - (d) Flashing/Blinking. Flashing, blinking, alternating-type or digital-type lighting, such as a digital message board, shall be prohibited.
 - (e) Structural supports and base. The support and base structure of a sign shall not exceed 50% of the maximum permitted message area of the sign. Such supports and base shall be measured on the single side or face having the greatest surface area. If the sign structural supports and base are made of wood, brick and/or stone, with only incidental use of other materials, the structure/base size limit shall be increased to 100% of the maximum

16. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

permitted message area of the sign. The top of the supporting structure of a freestanding sign shall extend no farther above the top of the message area than 1/3 of the maximum permitted height of the message area.

- (f) No sign shall project over a street or sidewalk, except for projecting signs as permitted herein.
 - (g) No sign shall be placed in such a position as to endanger vehicular or pedestrian traffic by obstructing a clear view, by causing confusion with government signs and signals, or by any other means.
- (14) Movable signs. Movable signs shall be prohibited. No vehicle, including parts thereof, trailers, and other accessories, shall be used as a means of circumventing the purpose and intent of this chapter. A vehicle displaying a commercial message which is licensed, registered and inspected shall be exempt from these sign regulations if it is regularly and customarily used to transport persons or property for the business.
- (15) Flags, banners, pennants, etc.
- (a) In addition to the signs otherwise permitted by this chapter, there may be displayed, on any lot, up to three flags displaying any otherwise legal symbol, message or information, commercial or noncommercial; except that off-site commercial flags shall be restricted as set forth in this chapter. No such flag shall exceed 24 square feet measured by one face of the flag only. Any such flag shall be mounted directly to one flagpole. A "flagpole" is a pole intended and placed solely for the support and display of a flag or flags, and does not include utility poles, light poles, trees or other sign structures. All flagpoles shall be erected vertically or within 45° of the vertical. No portion of any flagpole shall be sited within 10 feet of a property line. No flagpole shall extend more than 35 feet in height above grade or, if mounted on a building, 55 feet above the average finished grade of the building.
 - (b) Banners, feather flags, pennants, searchlights, twirling signs, balloons or other gas-filled figures, and other such materials shall be prohibited, except as specified herein. **[Amended 4-14-2015 by Art. 2]**
 - (c) This subsection shall not be construed to prevent any sign otherwise permitted by this chapter, and which conforms to all sign requirements of this chapter, from taking the form of a flag or other fabric. Banners may be used to cover part or all of an existing freestanding, projecting or wall sign to advertise temporary events. The net effect of this activity shall not increase the message area of any permitted sign or signs.
- (16) Maintenance. All surfaces and supporting structures of signs, whether erected prior to the effective date of this chapter or not, shall be maintained in a safe and sightly condition to the satisfaction of the Board of Selectmen or its authorized agent. A permit is required for any maintenance except the following: repainting; other surface renewal; or change of message on the same surface.

G. Restrictions regarding home occupations. A home occupation is considered accessory to a residential use and shall not occupy an area greater than 50% of the total floor area of the residential unit or 1,500 square feet, whichever is less. Home occupations are subject to the following provisions and restrictions:

- (1) The home occupation shall be carried on by persons who live in the principal residential unit full time. Two employees living off-premises are permitted.
- (2) The home occupation shall be carried on within the principal residential unit or an approved accessory structure.
- (3) Exterior storage of commercial vehicles, equipment or materials or variation from the residential character of the principal residential unit shall not be permitted.
- (4) The home occupation shall create no unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or other nuisance or threat to the health of the abutters.
- (5) Adequate off-street parking shall be provided.
- (6) A home occupation shall not generate excessive traffic or traffic in greater volumes than would normally be expected in a residential neighborhood.
- (7) A home occupation may display a sign conforming to Subsection F(10)(l) above.¹⁷
- (8) A change-of-use permit to operate a home occupation is required before startup of operation.
- (9) Retail or wholesale sales are only permitted for those items raised or made on the premises.
- (10) A home occupation shall not be offensive to the character of the neighborhood or decrease abutting property values.

H. Farm and nursery stands. Farm and nursery stands for selling indigenous produce or plants are considered temporary structures and are permitted, provided that:

- (1) Farm stands shall not exceed 1,200 square feet of gross floor area unless granted site plan review approval by the Planning Board.¹⁸
- (2) Three off-street parking spaces shall be required to be provided for structures up to 100 square feet in size. Additional parking shall be required at the rate of one space per 200 square feet over 100 square feet.
- (3) Wall signs shall not exceed 10 square feet in size. One portable A-frame sign per lot, not to exceed six square feet, shall be allowed to be displayed during business hours only.

17. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

18. Editor's Note: See Ch. 110, Site Plan Review.

- (4) All structures, parking areas and signs shall meet the setback requirements established herein.
- I. Yard sales. Yard sales shall be permitted, provided that no one household holds sales on more than six days per calendar year.¹⁹
- J. Travel trailers and recreational vehicles.
- (1) A travel trailer or recreational vehicle may be permitted on the site of a construction project for one year, provided that it is a necessary convenience for the construction project and that no public safety or health hazards shall be created.
- (2) One travel trailer or recreational vehicle may be stored on a lot, provided that it is not utilized for dwelling purposes.
- K. Special exceptions. The following land uses shall be allowed if granted a special exception by the Zoning Board of Adjustment:
- (1) Nursing homes. In order to protect existing property owners in the Center Conway Village Residential District against a new use nearby which may be incompatible or undesirable but also allow for nursing homes with acceptable accessory commercial uses such as gift shops, flower shops and candy shops, which are restricted to on-premises facilities, the Zoning Board of Adjustment may grant a special exception for nursing homes in the Center Conway Village Residential District, provided that:²⁰
- (a) The nursing home development is architecturally compatible with the surrounding neighborhood;
- (b) Traffic access to and from the development will not alter the character of the neighborhood;
- (c) Lighting will be of such design as not to disturb the tranquility of the neighborhood;
- (d) Outpatient and day-care facilities operate during reasonable hours;
- (e) The facility will not operate as a crisis center for drug addiction, alcoholism or the mentally disturbed;
- (f) Accessory commercial space on premises for the sole purpose of the nursing home occupants and employees will be operated and managed by the nursing home owners, and the same space will not be leased to outside businesses;
- (g) The nursing home structure shall not exceed two stories in height above grade;
- (h) The maximum density allowed is 16 beds per acre; and

19. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

20. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (i) The land to be developed for such use contains no less than five acres.
- (2) Charitable fund-raising events. A special exception may be granted for charitable fund-raising events operated by or on behalf of nonprofit organizations having a federal tax exemption, provided that:
 - (a) The event is not offensive to the character of the neighborhood;
 - (b) The event is for a brief, predetermined length or duration not to exceed three consecutive days; and
 - (c) The event complies with the guidelines and procedures for review of license applications for special events in the Town of Conway, as prescribed by the Conway Board of Selectmen.²¹
- (3) Private educational facilities. A special exception may be granted to permit private educational facilities, with or without accessory uses, provided that:
 - (a) Traffic access to and from the facility will not alter the character of the abutting residential neighborhood;
 - (b) The development is architecturally compatible with the height, scale, color and detail of the surrounding residential neighborhood; and
 - (c) The proposed facility will not adversely affect abutting properties by reason of undue light, noise, density of use, or other nuisance.
- (4) Day-care centers. A special exception may be granted to home-based day-care centers serving seven people to 15 people and other non-home-based centers, regardless of the number of people served, provided that:
 - (a) Traffic access to and from the development will not alter the character of the abutting residential neighborhood;
 - (b) The development is architecturally compatible with the height, scale, color and detail of the surrounding residential neighborhood;
 - (c) Site plan approval or a site plan exemption is granted by the Planning Board;²² and
 - (d) The size of the lot is appropriate to provide green space and play areas.
- (5) Commercial golf facilities. A special exception may be granted for traditionally full-sized golf courses and those accessory uses traditionally associated with this primary use, such as a clubhouse with a lounge and restaurant facility, professional shop, golf practice range, tennis courts and swimming pools, but not to include miniature golf, provided that:

21. Editor's Note: See Ch. 120, Special Events.

22. Editor's Note: See Ch. 110, Site Plan Review.

- (a) The specific site is an appropriate location for such use, not only in context with the land to be dedicated to such use but in context with the surrounding land uses as well. The applicant shall dedicate a specific parcel(s) to the proposed facility, which shall not be used for residential density. In order to determine this, the following criteria shall be evaluated:
- [1] Property values. The applicant shall present information by a certified appraiser indicating that there will be no negative impact on abutting properties as a result of the proposed special exception;
 - [2] Traffic. No traffic hazard will be created and traffic access will not alter the character of the neighborhood. The main access point shall be from an arterial or collector and not from neighborhood streets. The Zoning Board of Adjustment may consider the comments of the Town Planning Director in evaluating the traffic study. A traffic study shall be completed that shows the impact of the proposed development in its entirety on the nearest signalized intersection(s). For intersections that are of an overall level of service (herein "LOS") C or better, the LOS at the nearest signalized intersection(s) shall not fall below LOS C during the a.m. and p.m. peak hours as a result of the development. If LOS C cannot be maintained, the applicant shall make such changes that are necessary to bring the intersection to LOS C, provided that such improvements are acceptable to the Zoning Board of Adjustment. The applicant may choose to reduce the development so as to produce an acceptable LOS. If the LOS is already below C (D, E or F), the project shall only be approved if the LOS is brought up to D. The applicant may choose to reduce the development so as to produce an acceptable LOS;²³
 - [3] Nuisances; hazards. The Zoning Board of Adjustment shall review the operation of the development, including noise, odors and any hazards associated with the use and location. If the Zoning Board of Adjustment determines that any hazards or nuisances cannot be overcome and are not customarily found in a residential neighborhood, the proposed use shall be denied;
 - [4] Adequacy of private/municipal facilities. The Zoning Board of Adjustment shall review the proposed facilities, including drainage, sewer/septic, water, electric and other utilities, to ensure adequate provisions to meet the needs of the proposed development. It may consider the opinion of the Town Engineer in making this determination;
 - [5] Design and architecture. The design and architecture of the proposed structure shall be reviewed by the Zoning Board of Adjustment to determine its compatibility with abutting residential structures. The

23. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

scale, height, color and detail shall be similar to and/or aesthetically compatible with residential structures;

- [6] Lighting. The lighting plan shall be submitted to the Zoning Board of Adjustment for approval. No direct glare shall be permitted. Parking areas and walkways may be illuminated by luminaries so hooded or shielded as to not extend significantly beyond the parking and walkway areas;
 - [7] Hours of operation. Hours of operation will be appropriate so as to not interfere with the abutting residential neighborhood by means of excess traffic in off-peak hours, unscreened lighting that disturbs residential uses and other factors that make the facility different from a residential neighborhood; and
 - [8] Buffer. A perimeter buffer area adjacent to all abutting properties shall be left undisturbed if wooded and, if open, shall be planted with dense evergreen plantings. It shall be 100 feet in depth at a minimum unless a greater buffer is required by the Zoning Board of Adjustment due to the intensity of the use and interference with adjacent properties.²⁴
 - [9] Site plan. A site plan approval by the Planning Board is also required.²⁵
- (6) Resort hotel. A special exception may be granted for a resort hotel and those uses traditionally associated with this use, provided that:
- (a) The resort hotel is constructed on and in conjunction with a commercial golf facility or with another recreational/resort use on the supporting acreage;
 - (b) The minimum lot size for the lot supporting the combined commercial golf course and resort hotel shall be 200 acres, exclusive of that acreage that falls within the Wetlands Conservation District;
 - (c) To the extent not previously satisfied in an approval for a commercial golf facility, the resort hotel and its site will comply with all of the conditions required for a commercial golf facility;
 - (d) In addition to the buffer area required for commercial golf courses, the resort hotel building(s) shall be set back no closer than 1,000 feet to the boundary line of any other unaffiliated lot or roadway (An "unaffiliated lot or roadway" is a lot or roadway not owned or controlled by the applicant or its principals.); and
 - (e) The number of guest rooms in the resort hotel will be dependent upon the acreage allocated to the combined facility/resort hotel lot, at a ratio of two acres per guest room.

24. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

25. Editor's Note: See Ch. 110, Site Plan Review.

- (7) Post offices. A special exception may be granted to permit a publicly or privately owned post office, provided that:
- (a) Traffic access to and from the site will not alter the character of the abutting residential neighborhood;
 - (b) The post office is architecturally compatible with the surrounding residential district;
 - (c) The proposed facility will not adversely affect abutting properties by reason of undue light, noise, density of use or decreased property values;
 - (d) No portion of the building may be used for any purpose other than a post office;
 - (e) At such time as the facility ceases to be used as a post office, the building and improvements shall either be razed or converted to a use allowed in the district; and
 - (f) The minimum dimensional lot requirements (lot size, setbacks, frontage, etc.) may be increased by either the Zoning Board of Adjustment or the Planning Board if it is found that the aforementioned criteria cannot be met using minimum dimensional requirements.
- (8) Heliports. A special exception may be granted to permit private/noncommercial heliports, as accessory to any approved use. The requirement for a special exception to be granted under this subsection shall not be applied to the use of helicopters, or any other type of aircraft, being used on a temporary basis for such purposes as emergency response, medical necessity, ongoing construction projects that have been permitted by the Town of Conway, or temporary (fewer than seven days) news media coverage. Before a special exception for a heliport can be granted by the Zoning Board of Adjustment, the following conditions must be met:
- (a) The use of the site for a heliport shall not be offensive to the character of the neighborhood;
 - (b) The use of the site for a heliport shall not decrease abutting property values. Evidence supporting property values must be submitted by any party with an interest in the granting of the special exception from a creditable source that is knowledgeable of land evaluation and property values;
 - (c) Any site being considered to contain a heliport must be, at a minimum, five acres in size;
 - (d) Other site dimensions, above and beyond the overall acreage requirement listed above, shall be sufficient to provide safety areas suitable to meet all FAA-suggested dimensions and requirements;
 - (e) Before the Zoning Board of Adjustment considers any application for a special exception for this land use, all federal and state approvals which are

required must be obtained by the applicant, with copies of these approvals submitted as part of the request for a special exception; and

- (f) A major site plan approval shall be required of the applicant from the Planning Board for the heliport, which is accessory to an approved business. As a condition for the granting of the special exception, no use of the heliport may be engaged by the applicant until all conditions of the special exception, including a major site plan approval, have been satisfied by the applicant.²⁶
- (9) A special exception may be granted for helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term nature. No approval for a special exception shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to Town residents and their property.
- (10) Business development parks. A special exception may be granted for a business development park that provides educational and technical assistance as well as incubation space and infrastructure for new and existing business development, including roads, buildings, and other necessary infrastructure within the CCVR District, provided the following conditions are satisfied:
 - (a) The subject property must have some of its boundary within or contiguous with the boundary of a Highway or Village Commercial District.²⁷
 - (b) Arterial road. The business development park must front on and access an existing arterial road.
 - (c) Setbacks. The minimum front, side and rear setbacks from all adjacent properties and roads shall be 100 feet.
 - (d) Parking lots. Parking lots shall not exceed 20,000 square feet in gross area.
 - (e) Nuisances; hazards. The applicant must demonstrate that the operations of the business development park, including noise, odors and any other expected hazards associated with the development, are consistent with that of a residential neighborhood.
 - (f) Property values. The applicant shall provide a comprehensive report, by an appraiser licensed by the State of New Hampshire, which demonstrates that there will be no negative impact on abutting properties. This report shall be reviewed and comments will be provided by the Town Assessor.
 - (g) Traffic study. The applicant must provide a traffic study, certified by a qualified engineer licensed by the State of New Hampshire which clearly indicates the traffic impacts that would result from the project and

26. Editor's Note: See Ch. 110, Site Plan Review.

27. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

improvements to the existing transportation infrastructure that would be necessary to ensure appropriate access and level of service. This report shall be reviewed and comments will be provided by the Town Engineer.

- (h) Buffer. A perimeter buffer area adjacent to all abutting properties and streets shall be left in its undisturbed natural state or, if disturbed, shall be replanted with indigenous species. The minimum buffer depth shall be 100 feet.
 - (i) Recreation use. The business development park will construct a passive and active recreation trail system within the project for use by tenants of the business development park and the public. The trail system shall provide links to other existing or future publicly accessible trails adjacent to the property. The rate of trail system construction shall be, at least, consistent with the rate of development of the business development park. The recreation trails may cross the buffer only to connect with existing or future publicly accessible trails on adjacent properties and if they do not impair the effectiveness of the buffer.
 - (j) Green space. Green space shall comprise not less than 35% of the total lot area, exclusive of wetlands, water bodies, the one-hundred-year floodplain and slopes over 25%.
- (11) Kennels. A special exception may be granted to permit kennels for transient (fewer than 30 days) housing of domestic animals or commercial breeding facilities for domestic animals, provided that:
- (a) Minimum lot size is two acres.
 - (b) Animal housing areas, if indoors, shall be set back 40 feet from side and rear property lines and 60 feet from rights-of-way. Pastures/Outdoor exercise areas shall be set back 15 feet from any property line.
 - (c) A written plan for the disposal/removal of animal waste must be submitted along with the application requesting the special exception from the Zoning Board of Adjustment. This plan must be approved by the Board as a condition of the special exception approval, if granted.
 - (d) All animals shall be kept in an indoor area between the hours of 6:00 p.m. and 8:00 a.m.
- (12) Wireless communication facilities. Wireless communication facilities may be allowed by special exception in the CCVR District, on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:
- (a) Since the visual impact of wireless communication facilities can transcend Town lines, communities that may be visually affected shall be formally notified of applications for such proposed facilities as projects having regional impact.

- (b) The applicant must demonstrate that every reasonable effort has been made to cause the facility to have the least possible visual impact on the Town at large, including demonstration of realistic analysis of multiple sites, the need for the proposed height, and any impact on significant roadside viewpoints.
- (c) Any wireless communication facility shall be designed to accommodate multiple providers of communication services and will only be approved under the condition that the primary developer of the facility will make the facility available upon reasonable terms, by lease or other legal instruments, to other wireless communication services.
- (d) The Board of Adjustment may request detailed plans from the applicant and may, at the expense of the applicant, engage the services of professional consultants to review and comment on the proposal, and testimony of the applicants or their agents relating thereto.
- (e) Major site plan approval must be obtained from the Planning Board.²⁸

§ 190-15. Conway Village Residential (CVR) District. [Amended 4-14-2015 by Art. 2, Art. 3, Art. 4²⁹]

The CVR District is primarily designed to accommodate a mix of uses that complement the Village's residential neighborhoods. This area is generally serviced by municipal water and sewer services, thereby accommodating higher densities in the order of two units to four units per acre. Domestic farm animals are specifically prohibited in this district. Land uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries.

- (1) The CVR District shall have the following bounds (Map and Parcel numbers refer to 2003 Town of Conway Tax Maps):

Commencing at a point being the northeast corner of Map 265, Parcel 202; thence southerly along the eastern boundary of Map 265, Parcel 202 to the southeastern corner of Map 265, Parcel 202; thence traversing Route 113 (East Main Street) in a straight line to the northeast corner of Map 265, Parcel 9; thence southerly along the eastern boundary of Map 265, Parcel 9 to the southeast corner of Map 265, Parcel 9;

thence westerly along the southern boundary of Map 265, Parcel 9 to the southwest corner of Map 265, Parcel 9; thence northerly along the western boundary of Map 265, Parcel 9 to the northeast corner of Map 265, Parcel 11; thence westerly along the northern boundary of Map 265, Parcel 11 to the southwest corner of Map 265, Parcel 18; thence traversing Map 276, Parcel 86 in a straight line to the northeast corner of Map 276, Parcel 3; thence westerly along the northern boundary of Map

²⁸. Editor's Note: See Ch. 110, Site Plan Review.

²⁹. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

276, Parcel 3 to the northwest corner of Map 276, Parcel 3; thence southerly along the western boundary of Map 276, Parcels 3 and 2 to the southwest corner of Map 276, Parcel 2; thence southerly along the western boundary of Map 276, Parcel 16 to the southeast corner of Map 276, Parcel 16; thence westerly along the southern boundary of Map 276, Parcel 16 and continuing in a straight line to the center line of Pollard Street;

thence southerly along the center line of Pollard Street and continuing in a straight line traversing Map 276, Parcel 86 to the southeast corner of Map 276, Parcel 79; thence southwesterly along the southern boundary of Map 276, Parcel 79 and continuing in a straight line to the center line of Route 153 (Eaton Road); thence northerly along the center line of Route 153 (Eaton Road) to the intersection of the center line of Tasker Hill Road; thence southerly along the center line of Tasker Hill Road to the intersection of the center line of Quint Street;

thence westerly along the center line of Quint Street to a point adjacent to the northeast corner of Map 276, Parcel 140; thence southwesterly through the northeast corner of Map 276, Parcel 140 and along the eastern boundary of Map 276, Parcel 140 to the southeast corner of Map 276, Parcel 140; thence westerly and southerly along the northern boundary of Map 276, Parcels 139 to the southeast corner of Map 276, Parcel 145; thence westerly along the southern boundary of Map 276, Parcels 145 to the southwest corner of Map 276, Parcel 145; thence northerly along the western boundary of Map 276, Parcels 145, 146, 147, 148 and 149 to the northwest corner of Map 276, Parcel 149; thence easterly along the northern boundary of Map 276, Parcels 149, 150, 151, 152 and 153 to the southwest corner of Map 276, Parcel 167;

thence northerly to the northwest corner of Map 276, Parcel 167; thence northerly and westerly along the southern boundary of Map 276, Parcel 168 to the southwest corner of Map 276, Parcel 168; thence northerly, along the western boundary of Map 276, Parcel 168 to the northwest corner of Map 276, Parcel 168; thence northerly in a straight line to the southwest corner of Map 276, Parcel 239; thence northerly along the western boundary of Map 276, Parcels 239, 240, 241, 242 and 243 to the southern boundary of Map 276, Parcel 244; thence westerly along the southern boundary of Map 276, Parcel 244 to the southwest corner of Map 276, Parcel 244; thence northerly along the western boundary of Map 276, Parcels 244, 245, 246 and 247 to the southern boundary of Map 276, Parcel 248; thence westerly along the southern boundary of Map 276, Parcel 248 to the eastern shore of Pequawket Pond;

thence easterly along the shore of Pequawket Pond to the northeast corner of Map 276, Parcel 249; thence traversing Page Randall Brook in a straight line to the northwest corner of Map 276, Parcel 271; thence easterly along the northern boundary of Map 276, Parcel 271 to the southwest corner of Map 276, Parcel 273; thence northerly to the northwest corner of Map 276, Parcel 273; thence easterly along the northern boundary of Map 276, Parcel 273 and continuing in a straight line to the center line of Route 153 (Pleasant Street); thence northerly along the center line of Route 153 (Pleasant Street) to the intersection with the center line of Greenwood Street;

thence easterly along the center line of Greenwood Street to the intersection with the center line of Wilder Street; thence northerly along the center line of Wilder Street to the intersection with the center line of Route 113 (East Main Street); thence easterly along the center line of Route 113 (East Main Street) to a point adjacent to the southwest corner of Map 265, Parcel 174; thence northerly through the southwest corner of Map 265, Parcel 174 and along the western boundary of Map 265, Parcel 174 to the southern boundary of Map 265, Parcel 175; thence westerly along the southern boundary of Map 265, Parcel 175 to the southwest corner of Map 265, Parcel 175; thence northerly along the western boundary of Map 265, Parcels 175, 176 and 177 to the southern shore of the Saco River, and thence easterly along the southern shore of the Saco River back to the point of commencement.

(2) District map. The CVR District Map is included as an attachment to this chapter.

B. Lot size and density.

- (1) Lots serviced by a municipal water system and municipal sewerage system shall have at least 1/2 acre for the first unit that may be located thereon and at least 10,000 square feet for each additional unit on the same lot.
- (2) Lots serviced by a municipal water system shall have at least 1/2 acre for each unit that may be located thereon.
- (3) All other lots shall have at least one acre for each unit that may be located thereon.
- (4) Special exceptions.
 - (a) In order to preserve and safeguard Conway's older homes, but also allow for their conversion to multifamily dwellings, the Zoning Board of Adjustment may grant special exceptions for residential structures and accessory structures on the same conforming lot, provided that:
 - [1] Substantially all of the structure is at least 50 years old.
 - [2] Modification of the interior does not exceed four units.
 - [3] No significant changes to the exterior lines or architectural detail are made which would diminish the historical or architectural heritage of the structure.
 - [4] Adequate area is available for parking and sewage disposal.
 - [5] Accessory structures must have at least 300 square feet of living space per unit suitable for conversion to a dwelling unit and not conflict with the purpose and intent of this section.
 - (b) In order to help provide year-round rental housing, the Zoning Board of Adjustment may grant a special exception for one accessory apartment as an accessory use to an owner-occupied single-family dwelling, on any-size lot, subject to the following conditions:

- [1] The accessory apartment is designed to ensure architectural compatibility with the neighborhood.
 - [2] Sufficient parking is located on site.
- C. Frontage. All lots must front on a state or Town highway with a Class I, II, III, IV or V classification, a private road constructed to Town standards as required by the Planning Board or a Class VI road proposed to be improved as stipulated by the Planning Board. To qualify as frontage, the lot must have access rights to the subject highway or road. The minimum distance for frontage on a road shall be:
- (1) One hundred fifty feet.
 - (2) One hundred feet for lots which front entirely on cul-de-sacs which meet the design requirements set forth in Chapter 130, Subdivision of Land, Article X, Detail #4, and approved by the Planning Board.
- D. Setbacks. The minimum front setback shall be 25 feet and the minimum side or back setback shall be 15 feet.
- E. Structure and building height. Structure height is restricted to achieve several purposes. The Town is economically dependent upon tourism and attracts visitors with its rural character and mountainous setting. Maintaining the traditional scale and style of structures aids in preserving the character of the Town. Peaked roofs are encouraged because it is the traditional roof style in the Town. (Care has been taken to prepare language which does not unduly encourage the use of flat-roof buildings.) The height restriction keeps structures and buildings below treetop level, which is typically from 60 feet to 100 feet for mature maple, beech, birch and pine trees. Structure height below treetop level helps maintain the rural atmosphere and preserve the viewsheds throughout the Town. In addition, the height limit minimizes difficulty in providing fire protection. The following shall apply throughout the Town:
- (1) Structure height shall not exceed 55 feet for any structure, except wind energy systems permitted in accordance with Chapter 179 of the Conway Code.
 - (2) Building height shall not exceed 45 feet.
 - (3) Church steeples may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:
 - (a) The space enclosed in the steeple is not usable floor space other than for the maintenance and structural purposes of the steeple.
 - (b) The height of the steeple is appropriate to the design and size of the church.
- F. Signs.
- (1) Sign setbacks. Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 15 feet from all other property boundaries.

- (2) There shall be no more than one freestanding sign per lot.
- (3) Maximum sign height shall be eight feet.
- (4) Maximum sign width shall be six feet.
- (5) Message area shall not exceed three square feet for professional or home occupations, nor shall message area exceed 12 square feet for identification of any nonresidential use.
- (6) Sign content. The Town has no intention of restricting individual free speech, but the Town does recognize its right to place reasonable restrictions upon commercial speech. Further, the Town wishes to prevent excessive or unnecessary signage along road corridors. In keeping with this reasoning, off-site commercial signs shall be prohibited.
- (7) Signs in platted ROW. Except as otherwise permitted below, no signs shall be permitted within any platted right-of-way:
 - (a) Special promotional banners that cross a public or private road, with a message area of 200 square feet or less, for public or institutional events.
 - (b) One directional sign to identify the entrance to a particular subdivision or development, not to exceed 12 square feet, and not to exceed eight feet in height nor six feet in width. For subdivisions which are approved by the Planning Board and which have nonresidential uses, this sign may identify businesses located within the subdivision.
- (8) Temporary event signage. In addition to signage otherwise permitted herein, temporary events may display up to 20 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:
 - (a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;
 - (b) Maximum sign height shall be eight feet; and
 - (c) Maximum sign width shall be 10 feet.
- (9) Special event signage. In addition to signage otherwise permitted herein, special events may display up to 40 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:
 - (a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;
 - (b) Maximum sign height shall be eight feet; and

- (c) Maximum sign width shall be 10 feet.
- (10) Signs exempt from property line setbacks and no permit required:
- (a) Signs with a message area of one square foot or less which bear only property numbers, post office numbers, names of occupants of the premises, other noncommercial identification, or with one of the following messages: "open"; "closed"; "vacancy"; or "no vacancy."
 - (b) Directional signs with a message area of four square feet or less, to indicate entrance and/or exit driveways.
 - (c) Legal notices, such as "no trespassing" signs, with a message area of 12 square feet or less.
 - (d) Business name and directional signs with a message area of three square feet or less which are located over doorways. Such signs may project from the wall surface.
 - (e) Flags.
 - (f) Window signs which are affixed to the interior of the window, not to cover more than 50% of any window.
 - (g) One sign identifying lawn, garage or barn sales, with a message area of 12 square feet or less, to be erected not more than two days prior to the event and removed within one day of the end of the event.
 - (h) Sign for a government election, with time limits as specified in state law, or if no state law applies, then erected no more than 12 weeks prior to the election and removed within two weeks following the election.
 - (i) Nonilluminated sign advertising the sale or lease of the premises upon which the sign is located, with a message area of 16 square feet or less in all districts.
 - (j) Special promotional signs for public or institutional events, with a message area of 40 square feet or less.
 - (k) Directional signs to help locate facilities for disabled persons, with a message area not to exceed four square feet, as required for compliance with the Americans with Disabilities Act of 1990.
 - (l) A home occupation may display a nonilluminated outdoor sign not exceeding three square feet in size.
 - (m) One real estate sign to identify lots for sale at each entrance to the subdivision in which the subject lots are located, not to exceed 12 square feet, and not to exceed eight feet in height nor six feet in width.
- (11) Signs subject to property line setbacks and no permit required:

- (a) For a religious institution, nonprofit organization, public service agency, public school or municipal building, one announcement board, with a message area of 12 square feet or less.
 - (b) For fraternal or social clubs, local service and philanthropic organizations to identify meeting locations, one sign with a message area of three square feet or less.
 - (c) Signs in parking lots to identify aisles, handicapped spaces, and reserved spaces.
 - (d) For construction in progress, one sign identifying the owner, architect, contractor and/or developer, to be removed within one month of completion of the project, with a message area of 12 square feet or less.
 - (e) Signs which convey only a noncommercial message, including but not limited to ideological, political, social, cultural, or religious messages, with a message area of 12 square feet or less.
- (12) Permit required for all other signs.
- (a) Sign application process. Any action requiring a sign permit shall be permitted only upon application to and approval of the Zoning Officer. Applications shall use the following process:
 - [1] An application form for each sign shall be completed and signed by the owner of the property.
 - [2] A complete application shall also include the following:
 - [a] Fee as set from time to time by the Board of Selectmen;
 - [b] Written description of the proposed type, size, height, setback, sign and supporting structure materials, and illumination of the sign;
 - [c] Statement specifically addressing compliance with off-site commercial sign restrictions; and
 - [d] Analysis regarding impact of safety, specifically addressing lighting/glare and line-of-sight blockage for vehicles and pedestrians.
 - [3] Upon receipt of a complete application, the Zoning Officer shall have up to 14 days to either approve or deny the application.
 - [4] If the application is denied, the Zoning Officer shall issue a written decision stating the reason(s) for denial.
 - [5] If the application is approved, the Zoning Officer shall issue an approval for the erection of a sign. The sign permit is valid for one year from date of approval. If the sign is not erected within one year, the permit shall expire.

- (13) Design standards. The following design standards shall be required to ensure compliance with the intent of these regulations:
- (a) Illumination. Signs shall not be illuminated from within; signs may be illuminated only by external light. Lighting shall be affixed to and, for dimensional purposes, considered part of the sign structure. Lighting shall be located, directed and/or shielded such that it only sheds light downward and is limited to the message display area. Lighting sources shall be metal halide or halogen and located, directed and/or shielded such that no direct light emissions are visible at any point along the property boundary, nor shall they in any way be distracting to vehicular traffic.
 - (b) Neon. Neon lighting shall be prohibited.
 - (c) Motion. Moving signs, or signs which give the appearance of motion, shall be prohibited.
 - (d) Flashing/Blinking. Flashing, blinking, alternating-type or digital-type lighting such as a digital message board shall be prohibited.
 - (e) Structural supports and base. The support and base structure of a sign shall not exceed 50% of the maximum permitted message area of the sign. Such supports and base shall be measured on the single side or face having the greatest surface area. If the sign structural supports and base are made of wood, brick and/or stone, with only incidental use of other materials, the structure/base size limit shall be increased to 100% of the maximum permitted message area of the sign. The top of the supporting structure of a freestanding sign shall extend no farther above the top of the message area than 1/3 of the maximum permitted height of the message area.
 - (f) No sign shall project over a street or sidewalk, except for projecting signs as permitted herein.
 - (g) No sign shall be placed in such a position as to endanger vehicular or pedestrian traffic by obstructing a clear view, by causing confusion with government signs and signals, or by any other means.
- (14) Movable signs. Movable signs shall be prohibited. No vehicle, including parts thereof, trailers, and other accessories, shall be used as a means of circumventing the purpose and intent of this chapter. A vehicle displaying a commercial message which is licensed, registered and inspected shall be exempt from these sign regulations if it is regularly and customarily used to transport persons or property for the business.
- (15) Flags, banners, pennants, etc.
- (a) In addition to the signs otherwise permitted by this chapter, there may be displayed, on any lot, up to three flags displaying any otherwise legal symbol, message or information, commercial or noncommercial; except that off-site commercial flags shall be restricted as set forth in this chapter. No such flag shall exceed 24 square feet measured by one face of the flag only.

Any such flag shall be mounted directly to one flagpole. A "flagpole" is a pole intended and placed solely for the support and display of a flag or flags, and does not include utility poles, light poles, trees or other sign structures. All flagpoles shall be erected vertically, or within 45° of the vertical. No portion of any flagpole shall be sited within 10 feet of a property line. No flagpole shall extend more than 35 feet in height above grade or, if mounted on a building, 55 feet above the average finished grade of the building.

- (b) Banners, feather flags, pennants, searchlights, twirling signs, balloons or other gas-filled figures, and other such materials shall be prohibited, except as specified herein.
 - (c) This subsection shall not be construed to prevent any sign otherwise permitted by this chapter, and which conforms to all sign requirements of this chapter, from taking the form of a flag or other fabric. Banners may be used to cover part or all of an existing freestanding, projecting or wall sign to advertise temporary events. The net effect of this activity shall not increase the message area of any permitted sign or signs.
- (16) Maintenance. All surfaces and supporting structures of signs, whether erected prior to the effective date of this chapter or not, shall be maintained in a safe and slightly condition to the satisfaction of the Board of Selectmen or its authorized agent. A permit is required for any maintenance except the following: repainting; other surface renewal; or change of message on the same surface.
- G. Restrictions regarding home occupations. A home occupation is considered accessory to a residential use and shall not occupy an area greater than 50% of the total floor area of the residential unit or 1,500 square feet, whichever is less. Home occupations are subject to the following provisions and restrictions:
- (1) The home occupation shall be carried on by persons who live in the principal residential unit full time. Two employees living off-premises are permitted.
 - (2) The home occupation shall be carried on within the principal residential unit or an approved accessory structure.
 - (3) Exterior storage of commercial vehicles, equipment or materials or variation from the residential character of the principal residential unit shall not be permitted.
 - (4) The home occupation shall create no unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or other nuisance or threat to the health of the abutters.
 - (5) Adequate off-street parking shall be provided.
 - (6) A home occupation shall not generate excessive traffic or traffic in greater volumes than would normally be expected in a residential neighborhood.
 - (7) A home occupation may display a sign conforming to Subsection F(10)(1) above.

- (8) A change-of-use permit to operate a home occupation is required before startup of operation.
 - (9) Retail or wholesale sales are only permitted for those items raised or made on the premises.
 - (10) A home occupation shall not be offensive to the character of the neighborhood or decrease abutting property values.
- H. Yard sales. Yard sales shall be permitted, provided that no one household holds sales on more than six days per calendar year.
- I. Mobile homes, travel trailers and recreational vehicles.
- (1) A mobile home, travel trailer or recreational vehicle may be permitted on the site of a construction project for one year, provided that it is a necessary convenience for the construction project and that no public safety or health hazards shall be created.
 - (2) One travel trailer or recreational vehicle may be stored on a lot, provided that it is not utilized for dwelling purposes.
 - (3) All mobile homes permitted under this subsection must be connected to a sewerage system and water source, both meeting minimum local and State of New Hampshire standards, as applicable and then promulgated; such systems shall be approved by the Selectmen or their designated agent and be maintained so as not to cause a health or sanitation hazard.
- J. Special exceptions. The following land uses shall be allowed if granted a special exception by the Zoning Board of Adjustment:
- (1) Private educational facilities. A special exception may be granted to permit private educational facilities, with or without accessory uses, provided that:
 - (a) Traffic access to and from the facility will not alter the character of the abutting residential neighborhood;
 - (b) The development is architecturally compatible with the height, scale, color and detail of the surrounding residential neighborhood; and
 - (c) The proposed facility will not adversely affect abutting properties by reason of undue light, noise, density of use, or other nuisance.
 - (2) Day-care centers. A special exception may be granted to home-based day-care centers serving seven people to fifteen people and other non-home-based centers, regardless of the number of people served, provided that:
 - (a) Traffic access to and from the development will not alter the character of the abutting residential neighborhood;
 - (b) The development is architecturally compatible with the height, scale, color and detail of the surrounding residential neighborhood;

- (c) Site plan approval or a site plan exemption is granted by the Planning Board; and
 - (d) The size of the lot is appropriate to provide green space and play areas.
- (3) Post offices. A special exception may be granted to permit a publicly or privately owned post office, provided that:
- (a) Traffic access to and from the site will not alter the character of the abutting residential neighborhood;
 - (b) The post office is architecturally compatible with the surrounding residential district;
 - (c) The proposed facility will not adversely affect abutting properties by reason of undue light, noise, density of use or decreased property values;
 - (d) No portion of the building may be used for any purpose other than a post office;
 - (e) At such time as the facility ceases to be used as a post office, the building and improvements shall either be razed or converted to a use allowed in the district; and
 - (f) The minimum dimensional lot requirements (lot size, setbacks, frontage, etc.) may be increased by either the Zoning Board of Adjustment or the Planning Board if it is found that the aforementioned criteria cannot be met using minimum dimensional requirements.
- (4) Helicopters. A special exception may be granted for helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term nature. No approval for a special exception shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to Town residents and their property.

§ 190-16. North Conway Village Residential (NCVR) District.

The NCVR District is primarily designed to accommodate a mix of uses that complement the Village's residential neighborhoods. This area is generally serviced by municipal water and sewer services, thereby accommodating higher densities in the order of two units to four units per acre. Domestic farm animals are specifically prohibited in this district. Land uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries.

- (1) The NCVR District shall have the following bounds (Map and Parcel numbers refer to 2003 Town of Conway Tax Maps):

Commencing at a point on the center line of Kearsarge Road adjacent to the northeast corner Map 214, Parcel 23.1; thence southerly along the center line of Kearsarge Road to the intersection of the center line of Skimobile Road;

thence easterly along the center line of Skimobile Road to a point adjacent to the northeast corner of Map 219, Parcel 106; thence southerly in a straight line through the northeast corner of Map 219, Parcel 106 to the southeast corner of Map 219, Parcel 106; thence westerly and southerly along the western boundary of Map 219, Parcel 105 to the northeast corner of Map 219, Parcel 186; thence southerly along the eastern boundary of Map 219, Parcel 186 to the southeast corner of Map 219, Parcel 186;

thence westerly along the northern boundary of Map 219, Parcel 218 to the southeast corner of Map 219, Parcel 199; thence westerly, northerly and westerly along the southern boundary of Map 219, Parcel 199 to the southwest corner of Map 219, Parcel 199; thence westerly in a straight line traversing Map 219, Parcel 211 to the center line of the North-South Road;

thence northerly along the center line of the North-South Road and continuing along the center line of Map 202, Parcel 150 (former Main Central Railroad ROW) to a point adjacent to the southwest corner of Map 214, Parcel 31; thence easterly along the southern boundary of Map 214, Parcel 31 to the northeast corner of Map 214, Parcel 23.3; thence southerly along the eastern boundary of Map 214, Parcel 23.3 to the northwest corner of Map 214, Parcel 23.2; thence easterly along the northern boundary of Map 214, Parcels 23.2 and 23.1, and continuing in a straight line to the point of commencement.

- (2) District map. The NCVR District Map is included as an attachment to this chapter.

B. Lot size and density.

- (1) Lots serviced by a municipal water system and municipal sewerage system shall have at least 1/2 acre for the first unit that may be located thereon and at least 10,000 square feet for each additional unit on the same lot.
- (2) Lots serviced by a municipal water system shall have at least 1/2 acre for each unit that may be located thereon.
- (3) All other lots shall have at least one acre for each unit that may be located thereon.
- (4) Special exceptions.
 - (a) In order to preserve and safeguard Conway's older homes, but also allow for their conversion to multifamily dwellings, the Zoning Board of Adjustment may grant special exceptions for residential structures and accessory structures on the same conforming lot, provided that:
 - [1] Substantially all of the structure is at least 50 years old.
 - [2] Modification of the interior does not exceed four units.

- [3] No significant changes to the exterior lines or architectural detail are made which would diminish the historical or architectural heritage of the structure.
 - [4] Adequate area is available for parking and sewage disposal.
 - [5] Accessory structures must have at least 300 square feet of living space per unit suitable for conversion to a dwelling unit and not conflict with the purpose and intent of this section.
- (b) In order to help provide year-round rental housing, the Zoning Board of Adjustment may grant a special exception for one accessory apartment as an accessory use to an owner-occupied single-family dwelling on any size lot subject to the following conditions:
- [1] The accessory apartment is designed to ensure architectural compatibility with the neighborhood.
 - [2] Sufficient parking is located on site.
- C. Frontage. All lots must front on a state or Town highway with a Class I, II, III, IV or V classification, a private road constructed to Town standards as required by the Planning Board or a Class VI road proposed to be improved as stipulated by the Planning Board. To qualify as frontage, the lot must have access rights to the subject highway or road. The minimum distance for frontage on a road shall be:
- (1) One hundred fifty feet.
 - (2) One hundred feet for lots which front entirely on cul-de-sacs which meet the design requirements set forth in Chapter 130, Subdivision of Land, Article X, Detail #4, and approved by the Planning Board.
- D. Setbacks. The minimum front setback shall be 25 feet and the minimum side or back setback shall be 15 feet.
- E. Structure and building height. Structure height is restricted to achieve several purposes. The Town is economically dependent upon tourism and attracts visitors with its rural character and mountainous setting. Maintaining the traditional scale and style of structures aids in preserving the character of the Town. Peaked roofs are encouraged because it is the traditional roof style in the Town. (Care has been taken to prepare language which does not unduly encourage the use of flat-roof buildings.) The height restriction keeps structures and buildings below treetop level, which is typically from 60 feet to 100 feet for mature maple, beech, birch and pine trees. Structure height below treetop level helps maintain the rural atmosphere and preserve the viewsheds throughout the Town. In addition, the height limit minimizes difficulty in providing fire protection. The following shall apply throughout the Town:
- (1) Structure height shall not exceed 55 feet for any structure, except wind energy systems permitted in accordance with Chapter 179 of the Conway Code.³⁰

30. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (2) Building height shall not exceed 45 feet.
- (3) Church steeples may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:
 - (a) The space enclosed in the steeple is not usable floor space other than for the maintenance and structural purposes of the steeple.
 - (b) The height of the steeple is appropriate to the design and size of the church.

F. Signs.

- (1) Sign setbacks. Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 15 feet from all other property boundaries.
- (2) There shall be no more than one freestanding sign per lot.
- (3) Maximum sign height shall be eight feet.
- (4) Maximum sign width shall be six feet.
- (5) Message area shall not exceed three square feet for professional or home occupations, nor shall message area exceed 12 square feet for identification of any nonresidential use.
- (6) Sign content. The Town has no intention of restricting individual free speech, but the Town does recognize its right to place reasonable restrictions upon commercial speech. Further, the Town wishes to prevent excessive or unnecessary signage along road corridors. In keeping with this reasoning, off-site commercial signs shall be prohibited.
- (7) Signs in platted ROW. Except as otherwise permitted below, no signs shall be permitted within any platted right-of-way.
 - (a) Special promotional banners that cross a public or private road, with a message area of 200 square feet or less, for public or institutional events.
 - (b) One directional sign to identify the entrance to a particular subdivision or development, not to exceed 12 square feet, and not to exceed eight feet in height nor six feet in width. For subdivisions which are approved by the Planning Board and which have nonresidential uses, this sign may identify businesses located within the subdivision.
- (8) Temporary event signage. In addition to signage otherwise permitted herein, temporary events may display up to 20 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

- (a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;
 - (b) Maximum sign height shall be eight feet; and
 - (c) Maximum sign width shall be 10 feet.
- (9) Special event signage. In addition to signage otherwise permitted herein, special events may display up to 40 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:
- (a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;
 - (b) Maximum sign height shall be eight feet; and
 - (c) Maximum sign width shall be 10 feet.
- (10) Signs exempt from property line setbacks and no permit required:
- (a) Signs with a message area of one square foot or less which bear only property numbers, post office numbers, names of occupants of the premises, other noncommercial identification, or with one of the following messages: "open"; "closed"; "vacancy"; or "no vacancy."
 - (b) Directional signs with a message area of four square feet or less, to indicate entrance and/or exit driveways.
 - (c) Legal notices, such as "no trespassing" signs, with a message area of 12 square feet or less.
 - (d) Business name and directional signs with a message area of three square feet or less which are located over doorways.
 - (e) Flags.
 - (f) Window signs which are affixed to the interior of the window, not to cover more than 50% of any window.
 - (g) One sign identifying lawn, garage or barn sales, with a message area of 12 square feet or less, to be erected not more than two days prior to the event and removed within one day of the end of the event.
 - (h) Sign for a government election, with time limits as specified in state law, or if no state law applies, then erected no more than 12 weeks prior to the election and removed within two weeks following the election.
 - (i) Nonilluminated sign advertising the sale or lease of the premises upon which the sign is located, with a message area of 16 square feet or less in all districts.

- (j) Special promotional signs for public or institutional events, with a message area of 40 square feet or less.
 - (k) Directional signs to help locate facilities for disabled persons, with a message area not to exceed four square feet, as required for compliance with the Americans with Disabilities Act of 1990.
 - (l) A home occupation may display a nonilluminated outdoor sign not exceeding three square feet in size.
 - (m) One real estate sign to identify lots for sale at each entrance to the subdivision in which the subject lots are located, not to exceed 12 square feet, and not to exceed eight feet in height nor six feet in width. **[Added 4-14-2015 by Art. 4]**
- (11) Signs subject to property line setbacks and no permit required:
- (a) For a religious institution, nonprofit organization, public service agency, public school or municipal building, one announcement board, with a message area of 12 square feet or less.
 - (b) For fraternal or social clubs, local service and philanthropic organizations to identify meeting locations, one sign with a message area of three square feet or less.
 - (c) Signs in parking lots to identify aisles, handicapped spaces, and reserved spaces.
 - (d) For construction in progress, one sign identifying the owner, architect, contractor and/or developer, to be removed within one month of completion of the project, with a message area of 12 square feet or less.
 - (e) Signs which convey only a noncommercial message, including but not limited to ideological, political, social, cultural, or religious messages, with a message area of 12 square feet or less.
- (12) Permit required for all other signs.
- (a) Sign application process. Any action requiring a sign permit shall be permitted only upon the application to and approval of the Zoning Officer. Applications shall use the following process:
 - [1] An application form for each sign shall be completed and signed by the owner of the property.
 - [2] A complete application shall also include the following:

- [a] Fee as set from time to time by the Board of Selectmen;³¹
 - [b] Written description of the proposed type, size, height, setback, sign and supporting structure materials, and illumination of the sign;
 - [c] Statement specifically addressing compliance with off-site commercial sign restrictions; and
 - [d] Analysis regarding impact of safety, specifically addressing lighting/glare and line-of-sight blockage for vehicles and pedestrians.
- [3] Upon receipt of a complete application, the Zoning Officer shall have up to 14 days to either approve or deny the application.
 - [4] If the application is denied, the Zoning Officer shall issue a written decision stating the reason(s) for denial.
 - [5] If the application is approved, the Zoning Officer shall issue an approval for the erection of a sign. The sign permit is valid for one year from date of approval. If the sign is not erected within one year, the permit shall expire.
- (13) Design standards. The following design standards shall be required to ensure compliance with the intent of these regulations:
- (a) Illumination. Signs shall not be illuminated from within; signs may be illuminated only by external light. Lighting shall be affixed to and, for dimensional purposes, considered part of the sign structure. Lighting shall be located, directed and/or shielded such that it only sheds light downward and is limited to the message display area. Lighting sources shall be metal halide or halogen and located, directed and/or shielded such that no direct light emissions are visible at any point along the property boundary, nor shall they in any way be distracting to vehicular traffic.
 - (b) Neon. Neon lighting shall be prohibited.
 - (c) Motion. Moving signs, or signs which give the appearance of motion, shall be prohibited.
 - (d) Flashing/Blinking. Flashing, blinking, alternating-type or digital-type lighting such as a digital message board shall be prohibited.
 - (e) Structural supports and base. The support and base structure of a sign shall not exceed 50% of the maximum permitted message area of the sign. Such supports and base shall be measured on the single side or face having the greatest surface area. If the sign structural supports and base are made of wood, brick and/or stone, with only incidental use of other materials, the structure/base size limit shall be increased to 100% of the maximum

31. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

permitted message area of the sign. The top of the supporting structure of a freestanding sign shall extend no farther above the top of the message area than 1/3 of the maximum permitted height of the message area.

- (f) No sign shall project over a street or sidewalk, except for projecting signs as permitted herein.
 - (g) No sign shall be placed in such a position as to endanger vehicular or pedestrian traffic by obstructing a clear view, by causing confusion with government signs and signals, or by any other means.
- (14) Movable signs. Movable signs shall be prohibited. No vehicle, including parts thereof, trailers, and other accessories, shall be used as a means of circumventing the purpose and intent of this chapter. A vehicle displaying a commercial message which is licensed, registered and inspected shall be exempt from these sign regulations if it is regularly and customarily used to transport persons or property for the business.
- (15) Flags, banners, pennants, etc.
- (a) In addition to the signs otherwise permitted by this chapter, there may be displayed, on any lot, up to three flags displaying any otherwise legal symbol, message or information, commercial or noncommercial; except that off-site commercial flags shall be restricted as set forth in this chapter. No such flag shall exceed 24 square feet measured by one face of the flag only. Any such flag shall be mounted directly to one flagpole. A "flagpole" is a pole intended and placed solely for the support and display of a flag or flags, and does not include utility poles, light poles, trees or other sign structures. All flagpoles shall be erected vertically, or within 45° of the vertical. No portion of any flagpole shall be sited within 10 feet of a property line. No flagpole shall extend more than 35 feet in height above grade or, if mounted on a building, 55 feet above the average finished grade of the building.
 - (b) Banners, feather flags, pennants, searchlights, twirling signs, balloons or other gas-filled figures, and other such materials shall be prohibited, except as specified herein. **[Amended 4-14-2015 by Art. 2]**
- (16) This subsection shall not be construed to prevent any sign otherwise permitted by this chapter, and which conforms to all sign requirements of this chapter, from taking the form of a flag or other fabric. Banners may be used to cover part or all of an existing freestanding, projecting or wall sign to advertise temporary events. The net effect of this activity shall not increase the message area of any permitted sign or signs.
- (17) Maintenance. All surfaces and supporting structures of signs, whether erected prior to the effective date of this chapter or not, shall be maintained in a safe and sightly condition to the satisfaction of the Board of Selectmen or its authorized agent. A permit is required for any maintenance except the following: repainting; other surface renewal; or change of message on the same surface.

- G. Restrictions regarding home occupations. A home occupation is considered accessory to a residential use and shall not occupy an area greater than 50% of the total floor area of the residential unit or 1,500 square feet, whichever is less. Home occupations are subject to the following provisions and restrictions:
- (1) The home occupation shall be carried on by persons who live in the principal residential unit full time. Two employees living off-premises are permitted.
 - (2) The home occupation shall be carried on within the principal residential unit or an approved accessory structure.
 - (3) Exterior storage of commercial vehicles, equipment or materials or variation from the residential character of the principal residential unit shall not be permitted.
 - (4) The home occupation shall create no unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or other nuisance or threat to the health of the abutters.
 - (5) Adequate off-street parking shall be provided.
 - (6) A home occupation shall not generate excessive traffic or traffic in greater volumes than would normally be expected in a residential neighborhood.
 - (7) A home occupation may display a sign conforming to Subsection F(10)(1) above.³²
 - (8) A change-of-use permit to operate a home occupation is required before startup of operation.
 - (9) Retail or wholesale sales are only permitted for those items raised or made on the premises.
 - (10) A home occupation shall not be offensive to the character of the neighborhood or decrease abutting property values.
- H. Yard sales. Yard sales shall be permitted, provided that no one household holds sales on more than six days per calendar year.³³
- I. Mobile homes, travel trailers and recreational vehicles.
- (1) A mobile home, travel trailer or recreational vehicle may be permitted on the site of a construction project for one year, provided that it is a necessary convenience for the construction project and that no public safety or health hazards shall be created.
 - (2) One travel trailer or recreational vehicle may be stored on a lot, provided that it is not utilized for dwelling purposes.
 - (3) All mobile homes permitted under this subsection must be connected to a sewerage system and water source, both meeting minimum local and State of New

32. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

33. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Hampshire standards, as applicable and then promulgated; such systems shall be approved by the Selectmen or their designated agent and be maintained so as not to cause a health or sanitation hazard.

J. Special exceptions. The following land uses shall be allowed if granted a special exception by the Zoning Board of Adjustment:

- (1) Private educational facilities. A special exception may be granted to permit private educational facilities, with or without accessory uses, provided that:
 - (a) Traffic access to and from the facility will not alter the character of the abutting residential neighborhood;
 - (b) The development is architecturally compatible with the height, scale, color and detail of the surrounding residential neighborhood; and
 - (c) The proposed facility will not adversely affect abutting properties by reason of undue light, noise, density of use, or other nuisance.
- (2) Day-care centers. A special exception may be granted to home-based day-care centers serving seven people to 15 people and other non-home-based centers, regardless of the number of people served, provided that:
 - (a) Traffic access to and from the development will not alter the character of the abutting residential neighborhood;
 - (b) The development is architecturally compatible with the height, scale, color and detail of the surrounding residential neighborhood;
 - (c) Site plan approval or a site plan exemption is granted by the Planning Board; and
 - (d) The size of the lot is appropriate to provide green space and play areas.
- (3) Post offices. A special exception may be granted to permit a publicly or privately owned post office, provided that:
 - (a) Traffic access to and from the site will not alter the character of the abutting residential neighborhood;
 - (b) The post office is architecturally compatible with the surrounding residential district;
 - (c) The proposed facility will not adversely affect abutting properties by reason of undue light, noise, density of use or decreased property values;
 - (d) No portion of the building may be used for any purpose other than a post office;
 - (e) At such time as the facility ceases to be used as a post office, the building and improvements shall either be razed or converted to a use allowed in the district; and

- (f) The minimum dimensional lot requirements (lot size, setbacks, frontage, etc.) may be increased by either the Zoning Board of Adjustment or the Planning Board if it is found that the aforementioned criteria cannot be met using minimum dimensional requirements.
- (4) Helicopters. A special exception may be granted for helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term nature. No approval for a special exception shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to Town residents and their property.

§ 190-17. Center Conway Village Commercial (CCVC) District.

The CCVC District is primarily designed to accommodate a compatible mixture of uses that complement commercial and residential uses typically associated with village centers. This district is not serviced by municipal water and sewer and is, generally, not yet appropriate for development at densities higher than one unit per acre. Uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

- A. The Center Conway Village Commercial District shall have the same permitted uses and limitations otherwise provided in the Village Commercial District under this chapter,³⁴ except the additional following limitations shall apply:
 - (1) Mobile homes shall be prohibited;
 - (2) Mobile home parks shall be prohibited;
 - (3) Retail use in excess of 3,000 square feet shall be prohibited;
 - (4) Wholesale and light industry shall be prohibited except as provided in regulations regarding home occupations in § 190-14G;
 - (5) Any size underground or above-ground on-site storage tanks for classified or hazardous materials are prohibited. This does not include storage tanks used for heating fuel for commercial or domestic use or an approved use; and
 - (6) Garage and filling stations shall be prohibited.
- B. District boundaries.
 - (1) The CCVC District shall have the following bounds (Map and Parcel numbers refer to 2003 Town of Conway Tax Maps):

Commencing at the point on the southern boundary of Map 219, Parcel 211 (former Maine Central Railroad ROW) at the northwest corner of Map 259, Parcel 19; thence southerly along the western boundary of Map 259, Parcel 19 to the

³⁴. Editor's Note: See § 190-18 below.

northeast corner of Map 259, Parcel 14; thence southwesterly along the eastern boundary of Map 259, Parcel 14 to the center line of Route 302; thence westerly along the center line of Route 302 to a point adjacent to the northeast corner of Map 260, Parcel 40;

thence southerly in a straight line through the northeast corner of Map 260, Parcel 40 and along the eastern boundary of Map 260, Parcels 40 and 45 to a distance of 1,200 feet from the center line of Route 302; thence westerly, maintaining the distance of 1,200 feet from the center line of Route 302, to the eastern boundary of Map 260, Parcel 58;

thence northerly along the eastern boundary of Map 260, Parcel 58 to the southeast corner of Map 260, Parcel 54; thence westerly to the southwest corner of Map 260, Parcel 54; thence northerly along the western boundary of Map 260, Parcel 54 to the northwest corner of Map 260, Parcel 54; thence north to the center line of Route 302;

thence easterly along the center line of Route 302 to a point adjacent to the southwest corner of Map 260, Parcel 78; thence northerly through the southwest corner of Map 260, Parcel 78 and along the western boundary of Map 260, Parcels 78 and 79 to the southern boundary of Map 219, Parcel 211 (former Maine Central Railroad ROW); and thence easterly along the southern boundary of Map 219, Parcel 211 (former Maine Central Railroad ROW) to the point of commencement.

- (2) District map. The CCVC District Map is included as an attachment to this chapter.

C. Lot size and density.

- (1) Lots serviced by a municipal water system and municipal sewerage system shall have at least 1/2 acre for the first unit that may be located thereon and at least 10,000 square feet for each additional unit on the same lot.
- (2) Lots serviced by a municipal water system shall have at least 1/2 acre for each unit that may be located thereon.
- (3) The minimum lot size for keeping domestic farm animals shall be one acre.
- (4) All other lots shall have at least one acre for each unit that may be located thereon.
- (5) Special exceptions.
 - (a) In order to preserve and safeguard Conway's older homes, but also allow for their conversion to multifamily dwellings, the Zoning Board of Adjustment may grant special exceptions for residential structures and accessory structures on the same conforming lot, provided that:
 - [1] Substantially all of the structure is at least 50 years old.
 - [2] Modification of the interior does not exceed four units.

- [3] No significant changes to the exterior lines or architectural detail are made which would diminish the historical or architectural heritage of the structure.
 - [4] Adequate area is available for parking and sewage disposal.
 - [5] Accessory structures must have at least 300 square feet of living space per unit suitable for conversion to a dwelling unit and not conflict with the purpose and intent of this section.
- (b) In order to help provide year-round rental housing, the Zoning Board of Adjustment may grant a special exception for one accessory apartment as an accessory use to an owner-occupied single-family dwelling, on any size lot, subject to the following conditions:
- [1] The accessory apartment is designed to ensure architectural compatibility with the neighborhood.
 - [2] Sufficient parking is located on site.
- (c) The Zoning Board of Adjustment may grant a special exception for up to eight dwelling units per acre in the Village Commercial and Highway Commercial Districts under the following conditions:
- [1] Each structure must contain at least three dwelling units.
 - [2] Not less than 25% of all dwelling units shall be designated as full-time rental apartments. At the time of Planning Board approval, the units designated as full-time rental apartments must be shown on the plan with a condition that they are leased for no less than 20 years from the date of Planning Board approval by the developer, and a deed restriction shall be recorded in the Registry of Deeds as evidence of the same.
 - [3] The subject property is serviced by precinct water and sewer or the New Hampshire Department of Environmental Services shall have issued a permit for construction of a sewerage and waste disposal system.
 - [4] Rental/Deed-restricted units shall be a maximum of 1,000 square feet and a minimum of 300 square feet.
 - [5] Architectural design plans must be submitted to the Zoning Board of Adjustment at the time of application to ensure compliance with the zoning regulations.
- D. Frontage. All lots must front on a state or Town highway with a Class I, II, III, IV or V classification, a private road constructed to Town standards as required by the Planning Board or a Class VI road proposed to be improved as stipulated by the Planning Board. To qualify as frontage, the lot must have access rights to the subject highway or road. The minimum distance for frontage on a road shall be:

- (1) Fifty feet.
 - (2) One hundred feet for lots which front entirely on cul-de-sacs which meet the design requirements set forth in Chapter 130, Subdivision of Land, Article X, Detail #4, and approved by the Planning Board.
- E. Setbacks. The minimum front setback shall be 25 feet and the minimum side or back setback shall be 10 feet.
- F. Structure and building height. Structure height is restricted to achieve several purposes. The Town is economically dependent upon tourism and attracts visitors with its rural character and mountainous setting. Maintaining the traditional scale and style of structures aids in preserving the character of the Town. Peaked roofs are encouraged because it is the traditional roof style in the Town. (Care has been taken to prepare language which does not unduly encourage the use of flat-roof buildings.) The height restriction keeps structures and buildings below treetop level, which is typically from 60 feet to 100 feet for mature maple, beech, birch and pine trees. Structure height below treetop level helps maintain the rural atmosphere and preserve the viewsheds throughout the Town. In addition, the height limit minimizes difficulty in providing fire protection. The following shall apply throughout the Town:
- (1) Structure height shall not exceed 55 feet for any structure, except wind energy systems permitted in accordance with Chapter 179 of the Conway Code.³⁵
 - (2) Building height shall not exceed 45 feet.
 - (3) Church steeples may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:
 - (a) The space enclosed in the steeple is not usable floor space other than for the maintenance and structural purposes of the steeple.
 - (b) The height of the steeple is appropriate to the design and size of the church.
- G. Signs.
- (1) Freestanding sign. There shall be no more than one freestanding sign per lot, except that where a lot fronts on two or more public rights-of-way and has two entrances at least 500 feet apart, two freestanding signs shall be permitted.
 - (a) The size of the message area shall not exceed 40 square feet.
 - (b) The height of the message area shall not exceed 15 feet above the undisturbed ground.
 - (c) The width of the message area shall not exceed 12 feet.
 - (d) Setback.

35. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- [1] The minimum setback shall be 25 feet from a platted right-of-way and five feet from all other property boundaries.
 - [2] Freestanding sign setbacks may be reduced to 10 feet from a platted right-of-way, if the size of the message area is reduced to 30 square feet maximum. All of the dimensional requirements, except the size of the message area and the minimum front setback, shall be required of these signs.
- (e) Where an existing nonconforming sign serves more than one commercial establishment, each having at least 60,000 square feet, or residential development, each comprised of at least 20 residential units sharing common access, the size of the message area may be expanded based upon 40 square feet per commercial establishment and 20 square feet per residential development; provided, however, that the total message area shall not exceed 80 square feet in any case.
 - (f) Projecting signs, including sign structure, not to exceed six square feet in the Village Commercial Districts are permitted in lieu of a freestanding sign. The sign shall be at least 10 feet above the ground; the top of the sign shall be no more than 15 feet above the ground.
 - (g) The Zoning Board of Adjustment may grant the following special exceptions:
 - [1] For two or more businesses located in a single building or within attached buildings and where the businesses share a common pedestrian entrance, an additional freestanding sign may be permitted for use as a directory sign, provided that the following conditions are met:
 - [a] The sign shall be used only to identify and locate businesses within;
 - [b] The message area shall not exceed 12 square feet;
 - [c] The height of the message area shall not exceed 20 feet above the undisturbed ground;
 - [d] The sign shall meet all setbacks; and
 - [e] The additional wall sign permitted by special exception under Subsection G(2)(d)[2] is not used.
 - [2] Where existing buildings are set back from the right-of-way less than the setback required for freestanding signs in Subsection G(1), the right-of-way setback of the freestanding sign may be reduced from 25 feet to any lesser amount down to five feet, provided that the following conditions are met:
 - [a] The message area shall be reduced to not more than 20 square feet;
 - [b] The sign shall not obstruct vehicular or pedestrian traffic;

- [c] The sign shall not obstruct the line-of-sight for traffic entering or exiting the site; and
 - [d] The sign shall not unduly obstruct the visibility of other signs or property in the area.
- (h) One appendage may be attached to a freestanding or projecting sign, and the message area of this appendage shall be considered part of the total message area of the sign. No appendage shall be permitted on supports or directional signs.
- (2) Wall sign. For lots without multiple commercial tenants, each lot shall be permitted one wall sign. For lots with multiple commercial tenants, each commercial tenant shall be permitted one wall sign. All wall signs shall be located on a wall which is common to both the interior and exterior of the business identified by the sign. The height of the message area shall not exceed the greater of 20 feet from the undisturbed ground or a height equal to 75% of the total height of the building, nor shall it exceed the height of the wall to which it is attached. The message area of the wall sign shall be based on the following formulas, subject to increase by bonus granted per Subsection G(12)(c):
- (a) For floor areas up to and including 50,000 square feet, the maximum message area shall be calculated as follows: $20 + (\text{total square feet floor area} \times 0.0016)$.
 - (b) If the floor area of the business is greater than 50,000 square feet, the maximum wall sign message area shall be 100 square feet. A business with a floor area greater than 50,000 square feet shall be permitted one additional wall sign if it has two or more exterior public or customer entrances, excluding emergency entrances, that are at least 20 feet apart. The message area of the second wall sign shall not exceed 20 square feet.
 - (c) The Zoning Board of Adjustment may grant the following special exceptions:
 - [1] For a major business in a shopping center or mall that does not have wall frontage facing its primary parking lot, one additional wall sign may be permitted, provided that the following conditions are met:
 - [a] The size of the message area shall not exceed 40 square feet;
 - [b] The sign shall be located on a wall facing the primary parking lot;
 - [c] Total wall sign area on the wall shall not exceed 10%; and
 - [d] All relevant height restrictions specified in Subsection G(2) apply.
 - [2] For two or more businesses located in a single building or within attached buildings and where the businesses share a common pedestrian entrance, an additional wall sign may be permitted, subject to the following:

- [a] The sign shall be used only to identify and locate the businesses within;
 - [b] The message area shall not exceed 12 square feet;
 - [c] The sign shall be located immediately adjacent to the common entrance; and
 - [d] The additional freestanding sign permitted by special exception under Subsection G(1)(g)[1] is not used.
- (3) Sign content. The Town has no intention of restricting individual free speech, but the Town does recognize its right to place reasonable restrictions upon commercial speech. Further, the Town wishes to prevent excessive or unnecessary signage along road corridors. In keeping with this reasoning, off-site commercial signs shall be prohibited.
- (4) Signs in platted ROW. Except as otherwise permitted below, no signs shall be permitted within any platted right-of-way:
- (a) Special promotional banners that cross a public or private road, with a message area of 200 square feet or less, for public or institutional events.
 - (b) One directional sign to identify the entrance to a particular subdivision or development, not to exceed 12 square feet, and not to exceed eight feet in height nor six feet in width. For subdivisions which are approved by the Planning Board and which have nonresidential uses, this sign may identify businesses located within the subdivision.
- (5) Temporary event signage. In addition to signage otherwise permitted herein, temporary events may display up to 20 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:
- (a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;
 - (b) Maximum sign height shall be eight feet; and
 - (c) Maximum sign width shall be 10 feet.
- (6) Special event signage. In addition to signage otherwise permitted herein, special events may display up to 40 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restriction:
- (a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;
 - (b) Maximum sign height shall be eight feet; and

- (c) Maximum sign width shall be 10 feet.
- (7) Signs exempt from property line setbacks and no permit required:
 - (a) Signs with a message area of one square foot or less which bear only property numbers, post office numbers, names of occupants of the premises, other noncommercial identification, or with one of the following messages: "open"; "closed"; "vacancy"; or "no vacancy."
 - (b) Directional signs with a message area of four square feet or less, to indicate entrance and/or exit driveways.
 - (c) Legal notices, such as "no trespassing" signs, with a message area of 12 square feet or less.
 - (d) Business name and directional signs with a message area of three square feet or less which are located over doorways. Such signs may project from the wall surface. **[Amended 4-14-2015 by Art. 3]**
 - (e) Flags.
 - (f) One portable A-frame sign per lot of record is permitted in the district. It may be displayed during business hours only, it shall have a message area of six square feet or less, no illumination of the sign is permitted, and no appendages to the sign are permitted.
 - (g) Window signs which are affixed to the interior of the window, not to cover more than 50% of any window.
 - (h) One sign identifying lawn, garage or barn sales, with a message area of 12 square feet or less, to be erected not more than two days prior to the event and removed within one day of the end of the event.
 - (i) Sign for a government election, with time limits as specified in state law or, if no state law applies, then erected no more than 12 weeks prior to the election and removed within two weeks following the election.
 - (j) Nonilluminated sign advertising the sale or lease of the premises upon which the sign is located, with a message area of 16 square feet or less in all districts.
 - (k) Special promotional signs for public or institutional events, with a message area of 40 square feet or less.
 - (l) Directional signs to help locate facilities for disabled persons, with a message area not to exceed four square feet, as required for compliance with the Americans with Disabilities Act of 1990.
 - (m) A home occupation may display a nonilluminated outdoor sign not exceeding three square feet in size.

- (n) One real estate sign to identify lots for sale at each entrance to the subdivision in which the subject lots are located, not to exceed 12 square feet, and not to exceed eight feet in height nor six feet in width. **[Added 4-14-2015 by Art. 4]**
- (8) Signs subject to property line setbacks and no permit required:
- (a) For a religious institution, nonprofit organization, public service agency, public school or municipal building, one announcement board, with a message area of 12 square feet or less.
 - (b) For fraternal or social clubs, local service and philanthropic organizations to identify meeting locations, one sign with a message area of three square feet or less.
 - (c) Signs in parking lots to identify aisles, handicapped spaces, and reserved spaces.
 - (d) For construction in progress, one sign identifying the owner, architect, contractor and/or developer, to be removed within one month of completion of the project, with a message area of 12 square feet or less.
 - (e) Signs which convey only a noncommercial message, including but not limited to ideological, political, social, cultural, or religious messages, with a message area of 12 square feet or less.
- (9) Permit required for all other signs.
- (a) Sign application process. Any action requiring a sign permit shall be permitted only upon the application to and approval of the Zoning Officer. Applications shall use the following process:
 - [1] An application form for each sign shall be completed and signed by the owner of the property.
 - [2] A complete application shall also include the following:
 - [a] Fee as set from time to time by the Board of Selectmen;³⁶
 - [b] Written description of the proposed type, size, height, setback, sign and supporting structure materials, and illumination of the sign;
 - [c] Statement specifically addressing compliance with off-site commercial sign restrictions; and
 - [d] Analysis regarding impact of safety, specifically addressing lighting/glare and line-of-sight blockage for vehicles and pedestrians.

³⁶ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- [3] Upon receipt of a complete application, the Zoning Officer shall have up to 14 days to either approve or deny the application.
 - [4] If the application is denied, the Zoning Officer shall issue a written decision stating the reason(s) for denial.
 - [5] If the application is approved, the Zoning Officer shall issue an approval for the erection of a sign. The sign permit is valid for one year from date of approval. If the sign is not erected within one year, the permit shall expire.
- (10) Design standards. The following design standards shall be required to ensure compliance with the intent of these regulations:
- (a) Illumination. Signs shall not be illuminated from within; signs may be illuminated only by external light. Lighting shall be affixed to and, for dimensional purposes, considered part of the sign structure. Lighting shall be located, directed and/or shielded such that it only sheds light downward and is limited to the message display area. Lighting sources shall be metal halide or halogen and located, directed and/or shielded such that no direct light emissions are visible at any point along the property boundary, nor shall they in any way be distracting to vehicular traffic.
 - (b) Neon. Neon lighting shall be prohibited.
 - (c) Motion. Moving signs, or signs which give the appearance of motion, shall be prohibited.
 - (d) Flashing/Blinking. Flashing, blinking, alternating-type or digital-type lighting such as a digital message board shall be prohibited.
 - (e) Structural supports and base. The support and base structure of a sign shall not exceed 50% of the maximum permitted message area of the sign. Such supports and base shall be measured on the single side or face having the greatest surface area. If the sign structural supports and base are made of wood, brick and/or stone, with only incidental use of other materials, the structure/base size limit shall be increased to 100% of the maximum permitted message area of the sign. The top of the supporting structure of a freestanding sign shall extend no farther above the top of the message area than 1/3 of the maximum permitted height of the message area.
 - (f) No sign shall project over a street or sidewalk, except for projecting signs as permitted herein.
 - (g) No sign shall be placed in such a position as to endanger vehicular or pedestrian traffic by obstructing a clear view, by causing confusion with government signs and signals, or by any other means.
- (11) Movable signs. Movable signs shall be prohibited. No vehicle, including parts thereof, trailers, and other accessories, shall be used as a means of circumventing the purpose and intent of this chapter. A vehicle displaying a commercial message

which is licensed, registered and inspected shall be exempt from these sign regulations if it is regularly and customarily used to transport persons or property for the business.

- (12) Flags, banners, pennants, etc.
- (a) In addition to the signs otherwise permitted by this chapter, there may be displayed, on any lot, up to three flags displaying any otherwise legal symbol, message or information, commercial or noncommercial; except that off-site commercial flags shall be restricted as set forth in this chapter. No such flag shall exceed 24 square feet measured by one face of the flag only. Any such flag shall be mounted directly to one flagpole. A "flagpole" is a pole intended and placed solely for the support and display of a flag or flags, and does not include utility poles, light poles, trees or other sign structures. All flagpoles shall be erected vertically, or within 45° of the vertical. No portion of any flagpole shall be sited within 10 feet of a property line. No flagpole shall extend more than 35 feet in height above grade or, if mounted on a building, 55 feet above the average finished grade of the building.
 - (b) Banners, feather flags, pennants, searchlights, twirling signs, balloons or other gas-filled figures, and other such materials shall be prohibited, except as specified herein. **[Amended 4-14-2015 by Art. 2]**
 - (c) This subsection shall not be construed to prevent any sign otherwise permitted by this chapter, and which conforms to all sign requirements of this chapter, from taking the form of a flag or other fabric. Banners may be used to cover part or all of an existing freestanding, projecting or wall sign to advertise temporary events. The net effect of this activity shall not increase the message area of any permitted sign or signs.
- (13) Maintenance. All surfaces and supporting structures of signs, whether erected prior to the effective date of this chapter or not, shall be maintained in a safe and sightly condition to the satisfaction of the Board of Selectmen or its authorized agent. A permit is required for any maintenance except the following: repainting; other surface renewal; or change of message on the same surface.
- (14) Sign incentives. The purpose of these sign incentives is to reduce visual clutter and distraction from the natural environment caused by signs. This system offers design and size bonuses as a means of encouraging certain site and sign designs.
- (a) Any freestanding, projecting or wall sign which conforms to all provisions of this chapter shall be permitted to utilize up to 20% of the maximum permitted message area for changeable copy.
 - (b) A freestanding sign which conforms to all provisions of this chapter shall be permitted to increase its message area by up to 20 square feet above that otherwise permitted under this chapter if the lot has at least 300 feet but less than 500 feet of frontage on a Class V or better road; or by up to 40 square feet above that otherwise permitted under this chapter if the lot has 500 feet or more of frontage on a Class V or better road. In no case, however, shall

such increases cause any sign message area to exceed 80 square feet. The applicant shall submit a satisfactory written declaration, to be recorded at the Carroll County Registry of Deeds, in which the owner, its heirs, successors and assigns agree that, if the frontage of the property is subsequently reduced below that amount required for the bonus granted, the sign shall be removed or replaced with a sign which fully conforms with the provisions of this chapter; and that no subdivision of a lot shall be permitted unless a freestanding sign erected under this provision continues to conform to this provision; and such agreement must be legally enforceable by the Town of Conway.³⁷

- (c) On a site where the freestanding sign conforms to all provisions of this chapter, the maximum wall sign message area permitted per Subsection G(2) may be increased by 50%.
- H. Restrictions regarding home occupations. A home occupation is considered accessory to a residential use and shall not occupy an area greater than 50% of the total floor area of the residential unit or 1,500 square feet, whichever is less. Home occupations are subject to the following provisions and restrictions:
- (1) The home occupation shall be carried on by persons who live in the principal residential unit full time. Two employees living off-premises are permitted.
 - (2) The home occupation shall be carried on within the principal residential unit or an approved accessory structure.
 - (3) Exterior storage of commercial vehicles, equipment or materials or variation from the residential character of the principal residential unit shall not be permitted.
 - (4) The home occupation shall create no unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or other nuisance or threat to the health of the abutters.
 - (5) Adequate off-street parking shall be provided.
 - (6) A home occupation shall not generate excessive traffic or traffic in greater volumes than would normally be expected in a residential neighborhood.
 - (7) A home occupation may display a sign conforming to Subsection G(7)(m) above.³⁸
 - (8) A change-of-use permit to operate a home occupation is required before startup of operation.
 - (9) Retail or wholesale sales are only permitted for those items raised or made on the premises.
 - (10) A home occupation shall not be offensive to the character of the neighborhood or decrease abutting property values.

37. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

38. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- I. Farm and nursery stands. Farm and nursery stands for selling indigenous produce or plants are considered temporary structures and are permitted, provided that:
- (1) Farm stands shall not exceed 1,200 square feet of gross floor area unless granted site plan review approval by the Planning Board.³⁹
 - (2) Three off-street parking spaces shall be required to be provided for structures up to 100 square feet in size. Additional parking shall be required at the rate of one space per 200 square feet over 100 square feet.
 - (3) Wall signs shall not exceed 10 square feet in size. One portable A-frame sign per lot, not to exceed six square feet, shall be allowed to be displayed during business hours only.
 - (4) All structures, parking areas and signs shall meet the setback requirements established herein.
- J. Yard sales. Yard sales shall be permitted, provided that no one household holds sales on more than six days per calendar year.⁴⁰
- K. Travel trailers and recreational vehicles.
- (1) A travel trailer or recreational vehicle may be permitted on the site of a construction project for one year, provided that it is a necessary convenience for the construction project and that no public safety or health hazards shall be created.
 - (2) One travel trailer or recreational vehicle may be stored on a lot, provided that it is not utilized for dwelling purposes.
- L. Commercial amusements. Because the Town wishes to maintain a character which protects the long-term, high-quality environment, which will ultimately protect tourism in the valley, commercial amusements are hereby regulated to prevent adverse impacts on the Town's character and environment. All commercial amusements on a lot shall be located within an enclosed building, and the following shall apply:
- (1) Commercial amusements may occupy 10% or less of the floor space of a business in any business district, by permit of the Zoning Officer and without site plan review by the Planning Board.
 - (2) Commercial amusements may occupy more than 10% of the floor space of a business in any business district, subject to the condition that no noise, light or other adverse impact outside the building shall be caused by the amusements or their use. Site plan review approval by the Planning Board shall be required.⁴¹
- M. Outdoor commercial activities such as drive-up windows, remote outdoor speaker systems, interactive signs, menu boards or other similar devices with speakers, any of which operate in close proximity to residential property, constitute a nuisance due to

39. Editor's Note: See Ch. 110, Site Plan Review.

40. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

41. Editor's Note: See Ch. 110, Site Plan Review.

unconfined noise and light, as well as operating hours that are not compatible with the residential environment. Commercial activities that operate drive-up windows, remote outdoor speakers, interactive signs, menu boards or other similar devices with speakers that permit customers or the general public to communicate with personnel within the commercial building or other location on the commercial property shall be at least 300 feet from the closer of the residential zone boundary or from the nearest residential property line, and if the time of operation begins before 9:00 a.m. or ends after 5:00 p.m. the separation distance shall be at least 600 feet. Substantial effective buffering against sound and light shall be provided in either case. These setbacks may be waived by the Planning Board during the site plan review process if the property abuts the Floodplain Conservation District and it can be shown that there will be no sound or light impact on residential use.

N. Sexually oriented businesses.

- (1) Purpose and intent. It is the purpose of this subsection 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 subsection 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 subsection have neither the purpose nor the effect of imposing limitations or restrictions on the context of any communicative materials, including sexually oriented materials; and it is not the intent nor effect of this subsection 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 subsection to condone or legitimize the distribution of obscene material.
- (2) Restrictions. Sexually oriented businesses shall only be permitted in the business districts. Sexually oriented businesses shall not be permitted within 1,000 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 50% of the patrons, a public park, or recreation center or another sexually oriented business.
- (3) Measurement of distance. The 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 any sexually oriented business is proposed or exists to the nearest property boundary line of the lot containing any other named point of reference.
- (4) Site plan approval by the Conway Planning Board shall be a prerequisite for the establishment of a sexually oriented business.⁴² The Planning Board may impose reasonable restrictions relative to buffers, outdoor lighting, signs, parking, egress

42. Editor's Note: See Ch. 110, Site Plan Review.

and ingress, pedestrian movement, landscaping, building aesthetics and measures to ensure that displays of merchandise conform with RSA Ch. 571-B.

- (5) Violation of the provisions of this subsection is declared to be a public nuisance, which shall be abated by the Town of Conway by way of civil abatement procedures.
- (6) Nothing in this subsection 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.

O. Special exceptions. The following land use shall be allowed if granted a special exception by the Zoning Board of Adjustment:

- (1) Helicopters. A special exception may be granted for helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term nature. No approval for a special exception shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to Town residents and their property.

§ 190-18. Conway Village Commercial (CVC) District.

The CVC District is primarily designed to accommodate a compatible mixture of uses that complement commercial and residential uses typically associated with village centers. This district is serviced by municipal water and sewer and can accommodate development at higher densities. Uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries.

- (1) The CVC District shall have the following bounds (Map and Parcel numbers refer to 2003 Town of Conway Tax Maps):

Commencing at a point on the southern shore of the Saco River being the northeast corner of Map 265, Parcel 165; thence southerly along the eastern boundary of Map 265, Parcels 165, 170 and 171 to the northern boundary of Map 265, Parcel 173; thence easterly to the northeast corner of Map 265, Parcel 173; thence southerly along the eastern boundary of Map 265, Parcel 173 and continuing in a straight line to the center line of Route 113 (East Main Street); thence westerly along the center line of Route 113 (East Main Street) to the intersection of the center line of Wilder Street;

thence southerly along the center line of Wilder Street to the intersection of the center line of Greenwood Avenue; thence westerly along the center line of Greenwood Avenue to the intersection of the center line of Route 153 (Pleasant Street); thence southerly along the center line of Route 153 (Pleasant Street) to a

point adjacent to the northeast corner of Map 276, Parcel 273; thence through the southeast corner of Map 276, Parcel 277 and continuing easterly and southerly along the southern boundary of Map 276, Parcel 277 to the eastern shore of Page Randall Brook;

thence northerly along the eastern shore of Page Randall Brook to the southern boundary of the Route 16 (Main Street) ROW; thence westerly along the southern boundary of the Route 16 (Main Street) ROW to the northeast corner of Map 276, Parcel 280 on the northern shore of Pequawket Pond; thence southwesterly along the shore of Pequawket Pond to the southwest corner of Map 277, Parcel 135; thence northwesterly along the western boundary of Map 277, Parcel 135 to the southern boundary of the West Main Street ROW; thence southwesterly along the southern boundary of the West Main Street ROW to the intersection of the center line of Hobbs Street;

thence southerly along the center line of Hobbs Street to a point adjacent to the southeast corner of Map 277, Parcel 189; thence westerly through the southeast corner of Map 277, Parcel 189 along the southern boundary of Map 277, Parcels 189 and 190 to the southwest corner of Map 277, Parcel 190; thence northerly along the western boundary of Map 277, Parcel 190 to the southern boundary of the West Main Street ROW; thence southwesterly along the southern boundary of the West Main Street ROW to the northeast corner of Map 277, Parcel 192; thence southerly along the eastern boundary of Map 277, Parcel 192 to a point 400 feet from the center line of West Main Street; thence westerly maintaining a four-hundred-foot distance from the center line of West Main Street to the shore of Pequawket Pond;

thence westerly along the shore of Pequawket Pond to the southwest corner of Map 277, Parcel 211; thence northwesterly along the western boundary of Map 277, Parcel 211 and continuing in a straight line to the center line of the Conway Scenic Railroad; thence easterly along the center line of the Conway Scenic Railroad to a point 400 feet north of the center line of the Route 16 (Main Street) ROW; thence easterly maintaining a four-hundred-foot distance from the center line of the Route 16 (Main Street) ROW to the eastern boundary of Map 265, Parcel 45; thence southerly along the eastern boundary of Map 265, Parcel 45 to the northwest corner of Map 265, Parcel 47; thence easterly along the northern boundary of Map 265, Parcels 47 and 50 and continuing in a straight line to the center line of Washington Street;

thence northerly along the center line of Washington Street to a point adjacent to the northwest corner of Map 265, Parcel 135; thence in a straight line through the northwest corner of Map 265, Parcel 135 and along the northern boundary of Map 265, Parcel 135 to the western boundary of Map 265, Parcel 146; thence northerly to the northwest corner of Map 265, Parcel 146; thence easterly along the northern boundary of Map 265, Parcel 146 to the southern shore of the Saco River, and thence along the southern shore of the Saco River to the point of commencement.

- (2) District map. The CVC District Map is included as an attachment to this chapter.

B. Lot size and density.

- (1) Lots serviced by a municipal water system and municipal sewerage system shall have at least 1/2 acre for the first unit that may be located thereon and at least 10,000 square feet for each additional unit on the same lot.
- (2) Lots serviced by a municipal water system shall have at least 1/2 acre for each unit that may be located thereon.
- (3) The minimum lot size for keeping domestic farm animals shall be one acre.
- (4) All other lots shall have at least one acre for each unit that may be located thereon.
- (5) Special exceptions.
 - (a) In order to preserve and safeguard Conway's older homes, but also allow for their conversion to multifamily dwellings, the Zoning Board of Adjustment may grant special exceptions for residential structures and accessory structures on the same conforming lot, provided that:
 - [1] Substantially all of the structure is at least 50 years old.
 - [2] Modification of the interior does not exceed four units.
 - [3] No significant changes to the exterior lines or architectural detail are made which would diminish the historical or architectural heritage of the structure.
 - [4] Adequate area is available for parking and sewage disposal.
 - [5] Accessory structures must have at least 300 square feet of living space per unit suitable for conversion to a dwelling unit and not conflict with the purpose and intent of this section.
 - (b) In order to help provide year-round rental housing, the Zoning Board of Adjustment may grant a special exception for one accessory apartment as an accessory use to an owner-occupied single-family dwelling, on any size lot, subject to the following conditions:
 - [1] The accessory apartment is designed to ensure architectural compatibility with the neighborhood.
 - [2] Sufficient parking is located on site.
 - (c) The Zoning Board of Adjustment may grant a special exception for up to 12 dwelling units per acre in the Village Commercial and Highway Commercial Districts under the following conditions:
 - [1] That each structure must contain at least three dwelling units.
 - [2] Not less than 25% of all dwelling units shall be designated as full-time rental apartments. At the time of Planning Board approval, the units designated as full-time rental apartments must be shown on the plan

with a condition that they are leased for 20 years from the date of Planning Board approval by the developer, and a deed restriction shall be recorded in the Registry of Deeds as evidence of the same.

- [3] All lots must be serviced by municipal water and sewerage.
 - [4] Rental/Deed-restricted units shall be a maximum of 1,000 square feet and a minimum of 300 square feet.
 - [5] Architectural design plans must be submitted to the Zoning Board of Adjustment at the time of application to ensure compliance with the zoning regulations.
- C. Frontage. All lots must front on a state or Town highway with a Class I, II, III, IV or V classification, a private road constructed to Town standards as required by the Planning Board or a Class VI road proposed to be improved as stipulated by the Planning Board. To qualify as frontage, the lot must have access rights to the subject highway or road. The minimum distance for frontage on a road shall be:
- (1) Fifty feet.
 - (2) One hundred feet for lots which front entirely on cul-de-sacs which meet the design requirements set forth in Chapter 130, Subdivision of Land, Article X, Detail #4, and approved by the Planning Board.
- D. Setbacks. The minimum front setback shall be 5 feet and the minimum side or back setback shall be 10 feet.
- E. Structure and building height. Structure height is restricted to achieve several purposes. The Town is economically dependent upon tourism and attracts visitors with its rural character and mountainous setting. Maintaining the traditional scale and style of structures aids in preserving the character of the Town. Peaked roofs are encouraged because it is the traditional roof style in the Town. (Care has been taken to prepare language which does not unduly encourage the use of flat-roof buildings.) The height restriction keeps structures and buildings below treetop level, which is typically from 60 feet to 100 feet for mature maple, beech, birch and pine trees. Structure height below treetop level helps maintain the rural atmosphere and preserve the viewsheds throughout the Town. In addition, the height limit minimizes difficulty in providing fire protection. The following shall apply throughout the Town:
- (1) Structure height shall not exceed 55 feet for any structure, except wind energy systems permitted in accordance with Chapter 179 of the Conway Code.⁴³
 - (2) Building height shall not exceed 45 feet.
 - (3) Church steeples may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:

43. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (a) The space enclosed in the steeple is not usable floor space other than for the maintenance and structural purposes of the steeple.
- (b) The height of the steeple is appropriate to the design and size of the church.

F. Signs.

- (1) Freestanding sign. There shall be no more than one freestanding sign per lot, except that where a lot fronts on two or more public rights-of-way and has two entrances at least 500 feet apart, two freestanding signs shall be permitted.
 - (a) The size of the message area shall not exceed 40 square feet.
 - (b) The height of the message area shall not exceed 15 feet above the undisturbed ground.
 - (c) The width of the message area shall not exceed 12 feet.
 - (d) Setbacks.
 - [1] The minimum setback shall be 25 feet from a platted right-of-way and five feet from all other property boundaries.
 - [2] Freestanding sign setbacks may be reduced to 10 feet from a platted right-of-way, if the size of the message area is reduced to 30 square feet maximum. All of the dimensional requirements, except the size of the message area and the minimum front setback, shall be required of these signs.
 - (e) Where an existing nonconforming sign serves more than one commercial establishment, each having at least 60,000 square feet, or residential development, each comprised of at least 20 residential units sharing common access, the size of the message area may be expanded based upon 40 square feet per commercial establishment and 20 square feet per residential development; provided, however, that the total message area shall not exceed 80 square feet in any case.
 - (f) Projecting signs, including sign structure, not to exceed six square feet in the Village Commercial District are permitted in lieu of a freestanding sign. The sign shall be at least 10 feet above the ground; the top of the sign shall be no more than 15 feet above the ground.
 - (g) The Zoning Board of Adjustment may grant the following special exceptions:
 - [1] For two or more businesses located in a single building or within attached buildings and where the businesses share a common pedestrian entrance, an additional freestanding sign may be permitted for use as a directory sign, provided that the following conditions are met:
 - [a] The sign shall be used only to identify and locate businesses within;

- [b] The message area shall not exceed 12 square feet;
 - [c] The height of the message area shall not exceed 20 feet above the undisturbed ground;
 - [d] The sign shall meet all setbacks; and
 - [e] The additional wall sign permitted by special exception under Subsection F(2)(c)[2] is not used.
- [2] Where existing buildings are set back from the right-of-way less than the setback required for freestanding signs in Subsection F(1), the right-of-way setback of the freestanding sign may be reduced from 25 feet to any lesser amount down to five feet, provided that the following conditions are met:
- [a] The message area shall be reduced to not more than 20 square feet;
 - [b] The sign shall not obstruct vehicular or pedestrian traffic;
 - [c] The sign shall not obstruct the line-of-sight for traffic entering or exiting the site; and
 - [d] The sign shall not unduly obstruct the visibility of other signs or property in the area.
- (h) One appendage may be attached to a freestanding or projecting sign, and the message area of this appendage shall be considered part of the total message area of the sign. No appendage shall be permitted on supports nor directional signs.
- (2) Wall sign. For lots without multiple commercial tenants, each lot shall be permitted one wall sign. For lots with multiple commercial tenants, each commercial tenant shall be permitted one wall sign. All wall signs shall be located on a wall which is common to both the interior and exterior of the business identified by the sign. The height of the message area shall not exceed the greater of 20 feet from the undisturbed ground or a height equal to 75% of the total height of the building, nor shall it exceed the height of the wall to which it is attached. The message area of the wall sign shall be based on the following formulas, subject to increase by bonus granted per Subsection F(12)(c):
- (a) For floor areas up to and including 50,000 square feet, the maximum message area shall be calculated as follows: $20 + (\text{total square feet floor area} \times 0.0016)$.
 - (b) If the floor area of the business is greater than 50,000 square feet, the maximum wall sign message area shall be 100 square feet. A business with a floor area greater than 50,000 square feet shall be permitted one additional wall sign if it has two or more exterior public or customer entrances, excluding emergency entrances, that are at least 20 feet apart. The message area of the second wall sign shall not exceed 20 square feet.

- (c) The Zoning Board of Adjustment may grant the following special exceptions:
- [1] For a major business in a shopping center or mall that does not have wall frontage facing its primary parking lot, one additional wall sign may be permitted, provided that the following conditions are met:
 - [a] The size of the message area shall not exceed 40 square feet;
 - [b] The sign shall be located on a wall facing the primary parking lot;
 - [c] Total wall sign area on the wall shall not exceed 10%; and
 - [d] All relevant height restrictions specified in Subsection F(2) apply.
 - [2] For two or more businesses located in a single building or within attached buildings and where the businesses share a common pedestrian entrance, an additional wall sign may be permitted, subject to the following:
 - [a] The sign shall be used only to identify and locate the businesses within;
 - [b] The message area shall not exceed 12 square feet;
 - [c] The sign shall be located immediately adjacent to the common entrance; and
 - [d] The additional freestanding sign permitted by special exception under Subsection F(1)(g)[1] is not used.
- (3) Sign content. The Town has no intention of restricting individual free speech, but the Town does recognize its right to place reasonable restrictions upon commercial speech. Further, the Town wishes to prevent excessive or unnecessary signage along road corridors. In keeping with this reasoning, off-site commercial signs shall be prohibited.
- (4) Signs in platted ROW. Except as otherwise permitted below, no signs shall be permitted within any platted right-of-way:
- (a) Special promotional banners that cross a public or private road, with a message area of 200 square feet or less, for public or institutional events.
 - (b) One directional sign to identify the entrance to a particular subdivision or development, not to exceed 12 square feet, and not to exceed eight feet in height nor six feet in width. For subdivisions which are approved by the Planning Board and which have nonresidential uses, this sign may identify businesses located within the subdivision.
- (5) Temporary event signage. In addition to signage otherwise permitted herein, temporary events may display up to 20 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

- (a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;
 - (b) Maximum sign height shall be eight feet; and
 - (c) Maximum sign width shall be 10 feet.
- (6) Special event signage. In addition to signage otherwise permitted herein, special events may display up to 40 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:
- (a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;
 - (b) Maximum sign height shall be eight feet; and
 - (c) Maximum sign width shall be 10 feet.
- (7) Signs exempt from property line setbacks and no permit required:
- (a) Signs with a message area of one square foot or less which bear only property numbers, post office numbers, names of occupants of the premises, other noncommercial identification, or with one of the following messages: "open"; "closed"; "vacancy"; or "no vacancy."
 - (b) Directional signs with a message area of four square feet or less, to indicate entrance and/or exit driveways.
 - (c) Legal notices, such as "no trespassing" signs, with a message area of 12 square feet or less.
 - (d) Business name and directional signs with a message area of three square feet or less which are located over doorways. Such signs may project from the wall surface. **[Amended 4-14-2015 by Art. 3]**
 - (e) Flags.
 - (f) One portable A-frame sign per lot of record is permitted in the district. It may be displayed during business hours only, it shall have a message area of six square feet or less, no illumination of the sign is permitted, and no appendages to the sign are permitted.
 - (g) Window signs which are affixed to the interior of the window, not to cover more than 50% of any window.
 - (h) One sign identifying lawn, garage or barn sales, with a message area of 12 square feet or less, to be erected not more than two days prior to the event and removed within one day of the end of the event.

- (i) Sign for a government election, with time limits as specified in state law, or if no state law applies, then erected no more than 12 weeks prior to the election and removed within two weeks following the election.
 - (j) Nonilluminated sign advertising the sale or lease of the premises upon which the sign is located, with a message area of 16 square feet or less in all districts.
 - (k) Special promotional signs for public or institutional events, with a message area of 40 square feet or less.
 - (l) Directional signs to help locate facilities for disabled persons, with a message area not to exceed four square feet, as required for compliance with the Americans with Disabilities Act of 1990.
 - (m) A home occupation may display a nonilluminated outdoor sign not exceeding three square feet in size.
 - (n) One real estate sign to identify lots for sale at each entrance to the subdivision in which the subject lots are located, not to exceed 12 square feet, and not to exceed eight feet in height nor six feet in width. **[Added 4-14-2015 by Art. 4]**
- (8) Signs subject to property line setbacks and no permit required:
- (a) For a religious institution, nonprofit organization, public service agency, public school or municipal building, one announcement board, with a message area of 12 square feet or less.
 - (b) For fraternal or social clubs, local service and philanthropic organizations to identify meeting locations, one sign with a message area of three square feet or less.
 - (c) Signs in parking lots to identify aisles, handicapped spaces, and reserved spaces.
 - (d) For construction in progress, one sign identifying the owner, architect, contractor and/or developer, to be removed within one month of completion of the project, with a message area of 12 square feet or less.
 - (e) Signs which convey only a noncommercial message, including but not limited to ideological, political, social, cultural, or religious messages, with a message area of 12 square feet or less.
- (9) Permit required for all other signs.
- (a) Sign application process. Any action requiring a sign permit shall be permitted only upon the application to and approval of the Zoning Officer. Applications shall use the following process:
 - [1] An application form for each sign shall be completed and signed by the owner of the property.

- [2] A complete application shall also include the following:
 - [a] Fee as set from time to time by the Board of Selectmen;⁴⁴
 - [b] Written description of the proposed type, size, height, setback, sign and supporting structure materials, and illumination of the sign;
 - [c] Statement specifically addressing compliance with off-site commercial sign restrictions; and
 - [d] Analysis regarding impact of safety, specifically addressing lighting/glare and line-of-sight blockage for vehicles and pedestrians.
 - [3] Upon receipt of a complete application, the Zoning Officer shall have up to 14 days to either approve or deny the application.
 - [4] If the application is denied, the Zoning Officer shall issue a written decision stating the reason(s) for denial.
 - [5] If the application is approved, the Zoning Officer shall issue an approval for the erection of a sign. The sign permit is valid for one year from date of approval. If the sign is not erected within one year, the permit shall expire.
- (10) Design standards. The following design standards shall be required to ensure compliance with the intent of these regulations:
- (a) Illumination. Signs shall not be illuminated from within; signs may be illuminated only by external light. Lighting shall be affixed to and, for dimensional purposes, considered part of the sign structure. Lighting shall be located, directed and/or shielded such that it only sheds light downward and is limited to the message display area. Lighting sources shall be metal halide or halogen and located, directed and/or shielded such that no direct light emissions are visible at any point along the property boundary, nor shall they in any way be distracting to vehicular traffic.
 - (b) Neon. Neon lighting shall be prohibited.
 - (c) Motion. Moving signs, or signs which give the appearance of motion, shall be prohibited.
 - (d) Flashing/Blinking. Flashing, blinking, alternating-type or digital-type lighting such as a digital message board shall be prohibited.
 - (e) Structural supports and base. The support and base structure of a sign shall not exceed 50% of the maximum permitted message area of the sign. Such supports and base shall be measured on the single side or face having the greatest surface area. If the sign structural supports and base are made of

44. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

wood, brick and/or stone, with only incidental use of other materials, the structure/base size limit shall be increased to 100% of the maximum permitted message area of the sign. The top of the supporting structure of a freestanding sign shall extend no farther above the top of the message area than 1/3 of the maximum permitted height of the message area.

- (f) No sign shall project over a street or sidewalk, except for projecting signs as permitted herein.
 - (g) No sign shall be placed in such a position as to endanger vehicular or pedestrian traffic by obstructing a clear view, by causing confusion with government signs and signals, or by any other means.
- (11) Movable signs. Movable signs shall be prohibited. No vehicle, including parts thereof, trailers, and other accessories, shall be used as a means of circumventing the purpose and intent of this chapter. A vehicle displaying a commercial message which is licensed, registered and inspected shall be exempt from these sign regulations if it is regularly and customarily used to transport persons or property for the business.
- (12) Flags, banners, pennants, etc.
- (a) In addition to the signs otherwise permitted by this chapter, there may be displayed, on any lot, up to three flags displaying any otherwise legal symbol, message or information, commercial or noncommercial; except that off-site commercial flags shall be restricted as set forth in this chapter. No such flag shall exceed 24 square feet measured by one face of the flag only. Any such flag shall be mounted directly to one flagpole. A "flagpole" is a pole intended and placed solely for the support and display of a flag or flags, and does not include utility poles, light poles, trees or other sign structures. All flagpoles shall be erected vertically, or within 45° of the vertical. No portion of any flagpole shall be sited within 10 feet of a property line. No flagpole shall extend more than 35 feet in height above grade or, if mounted on a building, 55 feet above the average finished grade of the building.
 - (b) Banners, feather flags, pennants, searchlights, twirling signs, balloons or other gas-filled figures, and other such materials shall be prohibited, except as specified herein. **[Amended 4-14-2015 by Art. 2]**
 - (c) This subsection shall not be construed to prevent any sign otherwise permitted by this chapter, and which conforms to all sign requirements of this chapter, from taking the form of a flag or other fabric. Banners may be used to cover part or all of an existing freestanding, projecting or wall sign to advertise temporary events. The net effect of this activity shall not increase the message area of any permitted sign or signs.
- (13) Maintenance. All surfaces and supporting structures of signs, whether erected prior to the effective date of this chapter or not, shall be maintained in a safe and sightly condition to the satisfaction of the Board of Selectmen or its authorized agent. A

permit is required for any maintenance except the following: repainting; other surface renewal; or change of message on the same surface.

- (14) Sign incentives. The purpose of these sign incentives is to reduce visual clutter and distraction from the natural environment caused by signs. This system offers design and size bonuses as a means of encouraging certain site and sign designs.
- (a) Any freestanding, projecting or wall sign which conforms to all provisions of this chapter shall be permitted to utilize up to 20% of the maximum permitted message area for changeable copy.
 - (b) A freestanding sign which conforms to all provisions of this chapter shall be permitted to increase its message area by up to 20 square feet above that otherwise permitted under this chapter if the lot has at least 300 feet but less than 500 feet of frontage on a Class V or better road; or by up to 40 square feet above that otherwise permitted under this chapter if the lot has 500 feet or more of frontage on a Class V or better road. In no case, however, shall such increases cause any sign message area to exceed 80 square feet. The applicant shall submit a satisfactory written declaration, to be recorded at the Carroll County Registry of Deeds, in which the owner, its heirs, successors and assigns agree that, if the frontage of the property is subsequently reduced below that amount required for the bonus granted, the sign shall be removed or replaced with a sign which fully conforms with the provisions of this chapter; and that no subdivision of a lot shall be permitted unless a freestanding sign erected under this provision continues to conform to this provision; and such agreement must be legally enforceable by the Town of Conway.⁴⁵
 - (c) On a site where the freestanding sign conforms to all provisions of this chapter, the maximum wall sign message area permitted per Subsection F(7)(b) may be increased by 50%.
- G. Restrictions regarding home occupations. A home occupation is considered accessory to a residential use and shall not occupy an area greater than 50% of the total floor area of the residential unit or 1,500 square feet, whichever is less. Home occupations are subject to the following provisions and restrictions:
- (1) The home occupation shall be carried on by persons who live in the principal residential unit full time. Two employees living off-premises are permitted.
 - (2) The home occupation shall be carried on within the principal residential unit or an approved accessory structure.
 - (3) Exterior storage of commercial vehicles, equipment or materials or variation from the residential character of the principal residential unit shall not be permitted.

45. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (4) The home occupation shall create no unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or other nuisance or threat to the health of the abutters.
 - (5) Adequate off-street parking shall be provided.
 - (6) A home occupation shall not generate excessive traffic or traffic in greater volumes than would normally be expected in a residential neighborhood.
 - (7) A home occupation may display a sign conforming to Subsection F(7)(m) above.⁴⁶
 - (8) A change-of-use permit to operate a home occupation is required before startup of operation.
 - (9) Retail or wholesale sales are only permitted for those items raised or made on the premises.
 - (10) A home occupation shall not be offensive to the character of the neighborhood or decrease abutting property values.
- H. Farm and nursery stands. Farm and nursery stands for selling indigenous produce or plants are considered temporary structures and are permitted, provided that:
- (1) Farm stands shall not exceed 1,200 square feet of gross floor area unless granted site plan review approval by the Planning Board.⁴⁷
 - (2) Three off-street parking spaces shall be required to be provided for structures up to 100 square feet in size. Additional parking shall be required at the rate of one space per 200 square feet over 100 square feet.
 - (3) Wall signs shall not exceed 10 square feet in size. One portable A-frame sign per lot, not to exceed six square feet, shall be allowed to be displayed during business hours only.
 - (4) All structures, parking areas and signs shall meet the setback requirements established herein.
- I. Yard sales. Yard sales shall be permitted, provided that no one household holds sales on more than six days per calendar year.⁴⁸
- J. Commercial amusements. Because the Town wishes to maintain a character which protects the long-term, high-quality environment, which will ultimately protect tourism in the valley, commercial amusements are hereby regulated to prevent adverse impacts on the Town's character and environment. All commercial amusements on a lot shall be located within an enclosed building, and the following shall apply:

46. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

47. Editor's Note: See Ch. 110, Site Plan Review.

48. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Original Subsection 147.13.6.11, Travel trailers and recreational vehicles, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (1) Commercial amusements may occupy 10% or less of the floor space of a business in any business district, by permit of the Zoning Officer and without site plan review by the Planning Board.
 - (2) Commercial amusements may occupy more than 10% of the floor space of a business in any business district, subject to the condition that no noise, light or other adverse impact outside the building shall be caused by the amusements or their use. Site plan review approval by the Planning Board shall be required.⁴⁹
- K. Outdoor commercial activities such as drive-up windows, remote outdoor speaker systems, interactive signs, menu boards or other similar devices with speakers, any of which operate in close proximity to residential property, constitute a nuisance due to unconfined noise and light, as well as operating hours that are not compatible with the residential environment.
- (1) Commercial activities that operate drive-up windows, remote outdoor speakers, interactive signs, menu boards or other similar devices with speakers that permit customers or the general public to communicate with personnel within the commercial building or other location on the commercial property shall be at least 300 feet from the closer of the residential zone boundary or from the nearest residential property line, and if the time of operation begins before 9:00 a.m. or ends after 5:00 p.m. the separation distance shall be at least 600 feet. Substantial effective buffering against sound and light shall be provided in either case. These setbacks may be waived by the Planning Board during the site plan review process if the property abuts the Floodplain Conservation District and it can be shown that there will be no sound or light impact on residential use.
- L. Sexually oriented businesses.
- (1) Purpose and intent. It is the purpose of this subsection 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 subsection 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 subsection have neither the purpose nor the effect of imposing limitations or restrictions on the context of any communicative materials, including sexually oriented materials; and it is not the intent nor effect of this chapter 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 subsection to condone or legitimize the distribution of obscene material.
 - (2) Restrictions. Sexually oriented businesses shall only be permitted in the business districts. Sexually oriented businesses shall not be permitted within 1,000 feet of a church or place of worship, parish house or convent, a public, parochial or private

49. Editor's Note: See Ch. 110, Site Plan Review.

school, a state-approved day-care center, residence, any establishment in which minors constitute more than 50% of the patrons, a public park, or recreation center or another sexually oriented business.

- (3) Measure of distance. The 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 any sexually oriented business is proposed or exists to the nearest property boundary line of the lot containing any other named point of reference.
- (4) 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 ensure that displays of merchandise conform with RSA Ch. 571-B.
- (5) Violation of the provisions of this subsection is declared to be a public nuisance, which shall be abated by the Town of Conway by way of civil abatement procedures.
- (6) Nothing in this subsection 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.

M. Mobile homes, travel trailers and recreational vehicles. One mobile home used as a residential unit is permitted on a lot in the district.⁵⁰

- (1) A mobile home, travel trailer or recreational vehicle may be permitted on the site of a construction project for one year, provided that it is a necessary convenience for the construction project and that no public safety or health hazards shall be created.
- (2) One travel trailer or recreational vehicle may be stored on a lot, provided that it is not utilized for dwelling purposes.
- (3) All mobile homes permitted under this subsection must be connected to a sewerage system and water source, both meeting minimum local and State of New Hampshire standards, as applicable and then promulgated; such systems shall be approved by the Selectmen or their designated agent and be maintained so as not to cause a health or sanitation hazard.

N. Mobile home parks are allowed in the CVC District, provided that they meet the following minimum requirements:

- (1) A mobile home park shall contain a minimum of 10 acres and shall have a minimum frontage of 60 feet on or a sixty-foot right-of-way to a public street.

50. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (2) There shall be at least 10 mobile home spaces available at first occupancy.
 - (3) A minimum of 10,000 square feet shall be provided for each mobile home space.
 - (4) Each mobile home shall be provided with a mobile home stand, surfaced with a material providing suitable stability to bear the weight of a mobile home at all times of the year and having adequate gradient or crown to provide for proper surface drainage.
 - (5) All State of New Hampshire requirements for mobile home parks shall be met.
 - (6) All mobile homes permitted under this subsection must be connected to a sewerage system and water source, both meeting minimum local and State of New Hampshire standards, as applicable and then promulgated; such systems shall be approved by the Selectmen or their designated agent and be maintained so as not to cause a health or sanitation hazard.
- O. Special exceptions. The following land uses shall be allowed if granted a special exception by the Zoning Board of Adjustment:
- (1) Mobile homes. The Zoning Board of Adjustment may grant a special exception for a mobile home on a lot on which a single-family residential structure exists if the following conditions are met:
 - (a) The mobile home shall be occupied only as the usual residence of the immediate family, including grandparents, parents and children, of the owner and/or spouse of the primary single-family residential structure on the lot, and the lot shall be at least one acre if served by municipal water and sewerage and at least two acres in all other cases; or the mobile home shall be occupied as the usual residence of a full-time agricultural employee and his immediate family, and the single-family residence shall be part of an owner-operated farm of 25 acres or more.
 - (b) The special exception shall terminate on a change of ownership or occupancy of either the mobile home or the primary residential structure.
 - (c) A permit shall be obtained from the Selectmen or their agent, which shall be renewed yearly to ensure compliance with the above conditions.
 - (2) Helicopters. A special exception may be granted for helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term nature. No approval for a special exception shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to Town residents and their property.

§ 190-19. North Conway Village Commercial (NCVC) District.

The NCVC District is primarily designed to accommodate a compatible mixture of uses that complement commercial and residential uses typically associated with village centers. This district is serviced by municipal water and sewer and can accommodate development at higher densities. Uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries.

- (1) The NCVC District shall have the following bounds (Map and Parcel numbers refer to 2003 Town of Conway Tax Maps):

Commencing at the northeast corner of Map 215, Parcel 88; thence southerly along the eastern boundary of Map 215, Parcel 88 to the southeast corner of Map 215, Parcel 88; thence southerly in a straight line to the northeast corner of Map 215, Parcel 97; thence southerly along the eastern boundary of Map 215, Parcel 97 and Map 218, Parcel 68 to the northeast corner of Map 218, Parcel 69;

thence southeasterly along the eastern boundary of Map 218, Parcel 69 to the northwest corner of Map 218, Parcel 70; thence easterly along the northern boundary of Map 218, Parcel 70 to the northeast corner of Map 218, Parcel 70; thence southerly along the eastern boundary of Map 218, Parcel 70 to the southeast corner of Map 218, Parcel 70; thence easterly along the northern boundary of Map 218, Parcels 77 and 79 to the northeast corner of Map 218, Parcel 79; thence easterly in a straight line to the northwest corner of Map 218, Parcel 87; thence easterly along the northern boundary of Map 218, Parcels 87 and 88 and continuing in a straight line to the center line of Map 202, Parcel 150 (former Main Central Railroad ROW);

thence southerly along the center line of Map 202, Parcel 150 (former Main Central Railroad ROW) and continuing along to the center line of the North-South Road to the thread of the Kearsarge Brook; then southwesterly along the thread of the Kearsarge Brook to the western boundary of Map 218, Parcel 35 (Conway Scenic Railroad); thence northerly along the one-hundred-year floodplain to the thread of Randall Brook;

thence northerly along the thread of Randall Brook to a point 300 feet north of the center line of Route 16; thence southeasterly maintaining a three-hundred-foot distance from the center line of Route 16 to the southern boundary of Map 215, Parcel 84; thence easterly and southerly along the southern boundary of Map 215, Parcel 84 to the northwest corner of Map 215, Parcel 88, and thence easterly along the northern boundary of Map 215, Parcel 88 to the point of commencement.

- (2) District map. The NCVC District Map is included as an attachment to this chapter.

B. Lot size and density.

- (1) Lots serviced by a municipal water system and municipal sewerage system shall have at least 1/2 acre for the first unit that may be located thereon and at least 10,000 square feet for each additional unit on the same lot.

- (2) Lots serviced by a municipal water system shall have at least 1/2 acre for each unit that may be located thereon.
- (3) The minimum lot size for keeping domestic farm animals shall be one acre.
- (4) All other lots shall have at least one acre for each unit that may be located thereon.
- (5) Special exceptions.
 - (a) In order to preserve and safeguard Conway's older homes, but also allow for their conversion to multifamily dwellings, the Zoning Board of Adjustment may grant special exceptions for residential structures and accessory structures on the same conforming lot, provided that:
 - [1] Substantially all of the structure is at least 50 years old.
 - [2] Modification of the interior does not exceed four units.
 - [3] No significant changes to the exterior lines or architectural detail are made which would diminish the historical or architectural heritage of the structure.
 - [4] Adequate area is available for parking and sewage disposal.
 - [5] Accessory structures must have at least 300 square feet of living space per unit suitable for conversion to a dwelling unit and not conflict with the purpose and intent of this section.
 - (b) In order to help provide year-round rental housing, the Zoning Board of Adjustment may grant a special exception for one accessory apartment as an accessory use to an owner-occupied single-family dwelling, on any size lot, subject to the following conditions:
 - [1] The accessory apartment is designed to ensure architectural compatibility with the neighborhood.
 - [2] Sufficient parking is located on site.
 - (c) The Zoning Board of Adjustment may grant a special exception for up to 12 dwelling units per acre in the Village Commercial and Highway Commercial Districts under the following conditions:
 - [1] Each structure must contain at least three dwelling units.
 - [2] Not less than 25% of all dwelling units shall be designated as full-time rental apartments. At the time of Planning Board approval, the units designated as full-time rental apartments must be shown on the plan with a condition that they are leased for 20 years from the date of Planning Board approval by the developer, and a deed restriction shall be recorded in the Registry of Deeds as evidence of the same.
 - [3] All lots must be serviced by municipal water and sewerage.

- [4] Rental/Deed-restricted units shall be a maximum of 1,000 square feet and a minimum of 300 square feet.
- [5] Architectural design plans must be submitted to the Zoning Board of Adjustment at the time of application to ensure compliance with the zoning regulations.
- C. Frontage. All lots must front on a state or Town highway with a Class I, II, III, IV or V classification, a private road constructed to Town standards as required by the Planning Board or a Class VI road proposed to be improved as stipulated by the Planning Board. To qualify as frontage, the lot must have access rights to the subject highway or road. The minimum distance for frontage on a road shall be:
- (1) Fifty feet.
 - (2) One hundred feet for lots which front entirely on cul-de-sacs which meet the design requirements set forth in Chapter 130, Subdivision of Land, Article X, Detail #4, and approved by the Planning Board.
- D. Setbacks. The minimum front setback shall be five feet and the minimum side or back setback shall be 10 feet.
- E. Structure and building height. Structure height is restricted to achieve several purposes. The Town is economically dependent upon tourism and attracts visitors with its rural character and mountainous setting. Maintaining the traditional scale and style of structures aids in preserving the character of the Town. Peaked roofs are encouraged because it is the traditional roof style in the Town. (Care has been taken to prepare language which does not unduly encourage the use of flat-roof buildings.) The height restriction keeps structures and buildings below treetop level, which is typically from 60 feet to 100 feet for mature maple, beech, birch and pine trees. Structure height below treetop level helps maintain the rural atmosphere and preserve the viewsheds throughout the Town. In addition, the height limit minimizes difficulty in providing fire protection. Also, care must be taken to preserve the views to the west from the village. The following shall apply throughout the Town:
- (1) Structure height shall not exceed 55 feet for any structure. For properties west of Route 16, structure height shall not exceed 30 feet. These restrictions shall not apply to wind energy systems permitted in accordance with Chapter 179 of the Conway Code.⁵¹
 - (2) Building height shall not exceed 45 feet. For properties west of Route 16, building height shall not exceed 25 feet.
 - (3) Church steeples may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:

51. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (a) The space enclosed in the steeple is not usable floor space other than for the maintenance and structural purposes of the steeple.
- (b) The height of the steeple is appropriate to the design and size of the church.

F. Signs.

- (1) Freestanding sign. There shall be no more than one freestanding sign per lot, except that where a lot fronts on two or more public rights-of-way and has two entrances at least 500 feet apart, two freestanding signs shall be permitted.
 - (a) The size of the message area shall not exceed 40 square feet.
 - (b) The height of the message area shall not exceed 15 feet above the undisturbed ground.
 - (c) The width of the message area shall not exceed 12 feet.
 - (d) Setback.
 - [1] The minimum setback shall be 25 feet from a platted right-of-way, and five feet from all other property boundaries.
 - [2] Freestanding sign setbacks may be reduced to 10 feet from a platted right-of-way, if the size of the message area is reduced to 30 square feet maximum. All of the dimensional requirements, except the size of the message area and the minimum front setback, shall be required of these signs.
 - (e) Where an existing nonconforming sign serves more than one commercial establishment, each having at least 60,000 square feet, or residential development, each comprised of at least 20 residential units sharing common access, the size of the message area may be expanded based upon 40 square feet per commercial establishment and 20 square feet per residential development; provided, however, that the total message area shall not exceed 80 square feet in any case.
 - (f) Projecting signs, including sign structure, not to exceed six square feet in the Village Commercial Districts are permitted in lieu of a freestanding sign. The sign shall be at least 10 feet above the ground; the top of the sign shall be no more than 15 feet above the ground.
 - (g) The Zoning Board of Adjustment may grant the following special exceptions:
 - [1] For two or more businesses located in a single building or within attached buildings and where the businesses share a common pedestrian entrance, an additional freestanding sign may be permitted for use as a directory sign, provided that the following conditions are met:
 - [a] The sign shall be used only to identify and locate businesses within;

- [b] The message area shall not exceed 12 square feet;
 - [c] The height of the message area shall not exceed 20 feet above the undisturbed ground;
 - [d] The sign shall meet all setbacks; and
 - [e] The additional wall sign permitted by special exception under Subsection F(2)(d)[2] is not used.
- [2] Where existing buildings are set back from the right-of-way less than the setback required for freestanding signs in Subsection F(1), the right-of-way setback of the freestanding sign may be reduced from 25 feet to any lesser amount down to five feet, provided that the following conditions are met:
- [a] The message area shall be reduced to not more than 20 square feet;
 - [b] The sign shall not obstruct vehicular or pedestrian traffic;
 - [c] The sign shall not obstruct the line-of-sight for traffic entering or exiting the site; and
 - [d] The sign shall not unduly obstruct the visibility of other signs or property in the area.
- (h) One appendage may be attached to a freestanding or projecting sign, and the message area of this appendage shall be considered part of the total message area of the sign. No appendage shall be permitted on supports nor directional signs.
- (2) Wall sign. For lots without multiple commercial tenants, each lot shall be permitted one wall sign. For lots with multiple commercial tenants, each commercial tenant shall be permitted one wall sign. All wall signs shall be located on a wall which is common to both the interior and exterior of the business identified by the sign. The height of the message area shall not exceed the greater of 20 feet from the undisturbed ground or a height equal to 75% of the total height of the building, nor shall it exceed the height of the wall to which it is attached. The message area of the wall sign shall be based on the following formulas, subject to increase by bonus granted per Subsection F(12)(c):
- (a) For floor areas up to and including 50,000 square feet, the maximum message area shall be calculated as follows: $20 + (\text{total square feet floor area} \times 0.0016)$.
 - (b) If the floor area of the business is greater than 50,000 square feet, the maximum wall sign message area shall be 100 square feet. A business with a floor area greater than 50,000 square feet shall be permitted one additional wall sign if it has two or more exterior public or customer entrances, excluding emergency entrances, that are at least 20 feet apart. The message area of the second wall sign shall not exceed 20 square feet.

- (c) The Zoning Board of Adjustment may grant the following special exceptions:
- [1] For a major business in a shopping center or mall that does not have wall frontage facing its primary parking lot, one additional wall sign may be permitted, provided that the following conditions are met:
 - [a] The size of the message area shall not exceed 40 square feet;
 - [b] The sign shall be located on a wall facing the primary parking lot;
 - [c] Total wall sign area on the wall shall not exceed 10%; and
 - [d] All relevant height restrictions specified in Subsection F(2) apply.
 - [2] For two or more businesses located in a single building or within attached buildings and where the businesses share a common pedestrian entrance, an additional wall sign may be permitted, subject to the following:
 - [a] The sign shall be used only to identify and locate the businesses within;
 - [b] The message area shall not exceed 12 square feet;
 - [c] The sign shall be located immediately adjacent to the common entrance; and
 - [d] The additional freestanding sign permitted by special exception under Subsection F(1)(g)[1] is not used.
- (3) Sign content. The Town has no intention of restricting individual free speech, but the Town does recognize its right to place reasonable restrictions upon commercial speech. Further, the Town wishes to prevent excessive or unnecessary signage along road corridors. In keeping with this reasoning, off-site commercial signs shall be prohibited, except as follows:
- (a) Pedestrian-oriented off-site commercial signs (POOC signs) to encourage pedestrian activity (as opposed to vehicular traffic) in the North Conway Village Commercial District shall be permitted as follows:
 - [1] The POOC sign shall be posted in, and refer only to a business located in, the North Conway Village Commercial District;
 - [2] The POOC sign shall be located on private property;
 - [3] The POOC sign shall not be subject to setbacks;
 - [4] The POOC sign shall be mounted either on a freestanding pole or a wall, and when mounted on a freestanding pole there shall be no backing board of any kind;

- [5] The POOC sign shall be located and oriented to direct and inform pedestrians, and visibility to vehicles on roads shall be minimized where reasonable;
 - [6] The POOC sign shall be a one- or two-sided sign with dimensions being four inches tall by 18 inches long;
 - [7] A business utilizing any other type of off-site commercial sign(s) within the Town shall be prohibited from using the POOC sign;
 - [8] A business shall be permitted to utilize no more than two POOC signs;
 - [9] No more than 10 POOC signs shall be located on a lot;
 - [10] A permit is required for the establishment of a new POOC sign, as well as for the change of message if the business identified by the POOC sign changes;
 - [11] Both the property owner of the lot on which the sign is located and the owner of the business to which the sign refers shall be co-applicants and must both sign the application and abide by the conditions of approval;
 - [12] The POOC sign shall provide a directional message only, and shall refer only to an off-site business; and
 - [13] The POOC sign shall be located within 400 feet of the lot to which it provides direction and, further, shall be on the same side of Route 16/302.
- (4) Signs in platted ROW. Except as otherwise permitted below, no signs shall be permitted within any platted right-of-way:
- (a) Special promotional banners that cross a public or private road, with a message area of 200 square feet or less, for public or institutional events.
 - (b) One directional sign to identify the entrance to a particular subdivision or development, not to exceed 12 square feet, and not to exceed eight feet in height nor six feet in width. For subdivisions which are approved by the Planning Board and which have nonresidential uses, this sign may identify businesses located within the subdivision.
- (5) Temporary event signage. In addition to signage otherwise permitted herein, temporary events may display up to 20 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:
- (a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;
 - (b) Maximum sign height shall be eight feet; and

- (c) Maximum sign width shall be 10 feet.
- (6) Special event signage. In addition to signage otherwise permitted herein, special events may display up to 40 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:
- (a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;
 - (b) Maximum sign height shall be eight feet; and
 - (c) Maximum sign width shall be 10 feet.
- (7) Signs exempt from property line setbacks and no permit required:
- (a) Signs with a message area of one square foot or less which bear only property numbers, post office numbers, names of occupants of the premises, other noncommercial identification, or with one of the following messages: "open"; "closed"; "vacancy"; or "no vacancy."
 - (b) Directional signs with a message area of four square feet or less, to indicate entrance and/or exit driveways.
 - (c) Legal notices, such as "no trespassing" signs, with a message area of 12 square feet or less.
 - (d) Business name and directional signs with a message area of three square feet or less which are located over doorways. Such signs may project from the wall surface. **[Amended 4-14-2015 by Art. 3]**
 - (e) Flags.
 - (f) One portable A-frame sign per lot of record is permitted in the district. It may be displayed during business hours only, it shall have a message area of six square feet or less, no illumination of the sign is permitted and no appendages to the sign are permitted.
 - (g) Window signs which are affixed to the interior of the window, not to cover more than 50% of any window.
 - (h) One sign identifying lawn, garage or barn sales, with a message area of 12 square feet or less, to be erected not more than two days prior to the event and removed within one day of the end of the event.
 - (i) Sign for a government election, with time limits as specified in state law, or if no state law applies, then erected no more than 12 weeks prior to the election and removed within two weeks following the election.

- (j) Nonilluminated sign advertising the sale or lease of the premises upon which the sign is located, with a message area of 16 square feet or less in all districts.
 - (k) Special promotional signs for public or institutional events, with a message area of 40 square feet or less.
 - (l) Directional signs to help locate facilities for disabled persons, with a message area not to exceed four square feet, as required for compliance with the Americans with Disabilities Act of 1990.
 - (m) A home occupation may display a nonilluminated outdoor sign not exceeding three square feet in size.
 - (n) One real estate sign to identify lots for sale at each entrance to the subdivision in which the subject lots are located, not to exceed 12 square feet, and not to exceed eight feet in height nor six feet in width. **[Added 4-14-2015 by Art. 4]**
- (8) Signs subject to property line setbacks and no permit required:
- (a) For a religious institution, nonprofit organization, public service agency, public school or municipal building, one announcement board, with a message area of 12 square feet or less.
 - (b) For fraternal or social clubs, local service and philanthropic organizations to identify meeting locations, one sign with a message area of three square feet or less.
 - (c) Signs in parking lots to identify aisles, handicapped spaces, and reserved spaces.
 - (d) For construction in progress, one sign identifying the owner, architect, contractor and/or developer, to be removed within one month of completion of the project, with a message area of 12 square feet or less.
 - (e) Signs which convey only a noncommercial message, including but not limited to ideological, political, social, cultural, or religious messages, with a message area of 12 square feet or less.
- (9) Permit required for all other signs.
- (a) Sign application process. Any action requiring a sign permit shall be permitted only upon the application to and approval of the Zoning Officer. Applications shall use the following process:
 - [1] An application form for each sign shall be completed and signed by the owner of the property.
 - [2] A complete application shall also include the following:

- [a] Fee as set from time to time by the Board of Selectmen;⁵²
 - [b] Written description of the proposed type, size, height, setback, sign and supporting structure materials, and illumination of the sign;
 - [c] Statement specifically addressing compliance with off-site commercial sign restrictions; and
 - [d] Analysis regarding impact of safety, specifically addressing lighting/glare and line-of-sight blockage for vehicles and pedestrians.
- [3] Upon receipt of a complete application, the Zoning Officer shall have up to 14 days to either approve or deny the application.
 - [4] If the application is denied, the Zoning Officer shall issue a written decision stating the reason(s) for denial.
 - [5] If the application is approved, the Zoning Officer shall issue an approval for the erection of a sign. The sign permit is valid for one year from date of approval. If the sign is not erected within one year, the permit shall expire.
- (10) Design standards. The following design standards shall be required to ensure compliance with the intent of these regulations:
- (a) Illumination. Signs shall not be illuminated from within; signs may be illuminated only by external light. Lighting shall be affixed to and, for dimensional purposes, considered part of the sign structure. Lighting shall be located, directed and/or shielded such that it only sheds light downward and is limited to the message display area. Lighting sources shall be metal halide or halogen and located, directed and/or shielded such that no direct light emissions are visible at any point along the property boundary, nor shall they in any way be distracting to vehicular traffic.
 - (b) Neon. Neon lighting shall be prohibited.
 - (c) Motion. Moving signs, or signs which give the appearance of motion, shall be prohibited.
 - (d) Flashing/Blinking. Flashing, blinking, alternating-type or digital-type lighting such as a digital message board shall be prohibited.
 - (e) Structural supports and base. The support and base structure of a sign shall not exceed 50% of the maximum permitted message area of the sign. Such supports and base shall be measured on the single side or face having the greatest surface area. If the sign structural supports and base are made of wood, brick and/or stone, with only incidental use of other materials, the structure/base size limit shall be increased to 100% of the maximum

52. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

permitted message area of the sign. The top of the supporting structure of a freestanding sign shall extend no farther above the top of the message area than 1/3 of the maximum permitted height of the message area.

- (f) No sign shall project over a street or sidewalk, except for projecting signs as permitted herein.
 - (g) No sign shall be placed in such a position as to endanger vehicular or pedestrian traffic by obstructing a clear view, by causing confusion with government signs and signals, or by any other means.
- (11) Movable signs. Movable signs shall be prohibited. No vehicle, including parts thereof, trailers, and other accessories, shall be used as a means of circumventing the purpose and intent of this chapter. A vehicle displaying a commercial message which is licensed, registered and inspected shall be exempt from these sign regulations if it is regularly and customarily used to transport persons or property for the business.
- (12) Flags, banners, pennants, etc.
- (a) In addition to the signs otherwise permitted by this chapter, there may be displayed, on any lot, up to three flags displaying any otherwise legal symbol, message or information, commercial or noncommercial; except that off-site commercial flags shall be restricted as set forth in this chapter. No such flag shall exceed 24 square feet measured by one face of the flag only. Any such flag shall be mounted directly to one flagpole. A "flagpole" is a pole intended and placed solely for the support and display of a flag or flags, and does not include utility poles, light poles, trees or other sign structures. All flagpoles shall be erected vertically, or within 45° of the vertical. No portion of any flagpole shall be sited within 10 feet of a property line. No flagpole shall extend more than 35 feet in height above grade or, if mounted on a building, 55 feet above the average finished grade of the building.
 - (b) Banners, feather flags, pennants, searchlights, twirling signs, balloons or other gas-filled figures, and other such materials shall be prohibited, except as specified herein. **[Amended 4-14-2015 by Art. 2]**
 - (c) This subsection shall not be construed to prevent any sign otherwise permitted by this chapter, and which conforms to all sign requirements of this chapter, from taking the form of a flag or other fabric. Banners may be used to cover part or all of an existing freestanding, projecting or wall sign to advertise temporary events. The net effect of this activity shall not increase the message area of any permitted sign or signs.
- (13) Maintenance. All surfaces and supporting structures of signs, whether erected prior to the effective date of this chapter or not, shall be maintained in a safe and slightly condition to the satisfaction of the Board of Selectmen or its authorized agent. A permit is required for any maintenance except the following: repainting; other surface renewal; or change of message on the same surface.

- (14) Sign incentives. The purpose of these sign incentives is to reduce visual clutter and distraction from the natural environment caused by signs. This system offers design and size bonuses as a means of encouraging certain site and sign designs.
- (a) Any freestanding, projecting or wall sign which conforms to all provisions of this chapter shall be permitted to utilize up to 20% of the maximum permitted message area for changeable copy.
 - (b) A freestanding sign which conforms to all provisions of this chapter shall be permitted to increase its message area by up to 20 square feet above that otherwise permitted under this chapter if the lot has at least 300 feet but less than 500 feet of frontage on a Class V or better road; or by up to 40 square feet above that otherwise permitted under this chapter if the lot has 500 feet or more of frontage on a Class V or better road. In no case, however, shall such increases cause any sign message area to exceed 80 square feet. The applicant shall submit a satisfactory written declaration, to be recorded at the Carroll County Registry of Deeds, in which the owner, its heirs, successors and assigns agree that, if the frontage of the property is subsequently reduced below that amount required for the bonus granted, the sign shall be removed or replaced with a sign which fully conforms with the provisions of this chapter; and that no subdivision of a lot shall be permitted unless a freestanding sign erected under this provision continues to conform to this provision; and such agreement must be legally enforceable by the Town of Conway.⁵³
 - (c) On a site where the freestanding sign conforms to all provisions of this chapter, the maximum wall sign message area permitted per Subsection F(2) may be increased by 50%.
- G. Restrictions regarding home occupations. A home occupation is considered accessory to a residential use and shall not occupy an area greater than 50% of the total floor area of the residential unit or 1,500 square feet, whichever is less. Home occupations are subject to the following provisions and restrictions:
- (1) The home occupation shall be carried on by persons who live in the principal residential unit full time. Two employees living off-premises are permitted.
 - (2) The home occupation shall be carried on within the principal residential unit or an approved accessory structure.
 - (3) Exterior storage of commercial vehicles, equipment or materials or variation from the residential character of the principal residential unit shall not be permitted.
 - (4) The home occupation shall create no unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or other nuisance or threat to the health of the abutters.
 - (5) Adequate off-street parking shall be provided.

53. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (6) A home occupation shall not generate excessive traffic or traffic in greater volumes than would normally be expected in a residential neighborhood.
 - (7) A home occupation may display a sign conforming to Subsection F(7)(m) above.⁵⁴
 - (8) A change-of-use permit to operate a home occupation is required before startup of operation.
 - (9) Retail or wholesale sales are only permitted for those items raised or made on the premises.
 - (10) A home occupation shall not be offensive to the character of the neighborhood or decrease abutting property values.
- H. Farm and nursery stands. Farm and nursery stands for selling indigenous produce or plants are considered temporary structures and are permitted, provided that:
- (1) Farm stands shall not exceed 1,200 square feet of gross floor area unless granted site plan review approval by the Planning Board.⁵⁵
 - (2) Three off-street parking spaces shall be required to be provided for structures up to 100 square feet in size. Additional parking shall be required at the rate of one space per 200 square feet over 100 square feet.
 - (3) Wall signs shall not exceed 10 square feet in size. One portable A-frame sign per lot, not to exceed six square feet, shall be allowed to be displayed during business hours only.
 - (4) All structures, parking areas and signs shall meet the setback requirements established herein.
- I. Yard sales. Yard sales shall be permitted, provided that no one household holds sales on more than six days per calendar year.⁵⁶
- J. Commercial amusements. Because the Town wishes to maintain a character which protects the long-term, high-quality environment, which will ultimately protect tourism in the valley, commercial amusements are hereby regulated to prevent adverse impacts on the Town's character and environment. All commercial amusements on a lot shall be located within an enclosed building, and the following shall apply:
- (1) Commercial amusements may occupy 10% or less of the floor space of a business in any business district, by permit of the Zoning Officer and without site plan review by the Planning Board.
 - (2) Commercial amusements may occupy more than 10% of the floor space of a business in any business district, subject to the condition that no noise, light or

54. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

55. Editor's Note: See Ch. 110, Site Plan Review.

56. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Original Subsection 147.13.7.10, Travel trailers and recreational vehicles, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

other adverse impact outside the building shall be caused by the amusements or their use. Site plan review approval by the Planning Board shall be required.⁵⁷

K. Outdoor commercial activities such as drive-up windows, remote outdoor speaker systems, interactive signs, menu boards or other similar devices with speakers, any of which operate in close proximity to residential property, constitute a nuisance due to unconfined noise and light, as well as operating hours that are not compatible with the residential environment.

- (1) Commercial activities that operate drive-up windows, remote outdoor speakers, interactive signs, menu boards or other similar devices with speakers that permit customers or the general public to communicate with personnel within the commercial building or other location on the commercial property shall be at least 300 feet from the closer of the residential zone boundary or from the nearest residential property line, and if the time of operation begins before 9:00 a.m. or ends after 5:00 p.m. the separation distance shall be at least 600 feet. Substantial effective buffering against sound and light shall be provided in either case. These setbacks may be waived by the Planning Board during the site plan review process if the property abuts the Floodplain Conservation District and it can be shown that there will be no sound or light impact on residential use.

L. Sexually oriented businesses.

- (1) Purpose and intent. It is the purpose of this subsection 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 subsection 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 subsection have neither the purpose nor the effect of imposing limitations or restrictions on the context of any communicative materials, including sexually oriented materials; and it is not the intent nor effect of this subsection 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 subsection to condone or legitimize the distribution of obscene material.
- (2) Restrictions. Sexually oriented businesses shall only be permitted in the business districts. Sexually oriented businesses shall not be permitted within 1,000 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 50% of the patrons, a public park, or recreation center or another sexually oriented business.
- (3) Measure of distance. The distance between any sexually oriented business and other named point of reference shall be measured in a straight line from the nearest

⁵⁷ Editor's Note: See Ch. 110, Site Plan Review.

part of the structure in which any sexually oriented business is proposed or exists to the nearest property boundary line of the lot containing any other named point of reference.

- (4) Site plan approval by the Conway Planning Board shall be a prerequisite for the establishment of a sexually oriented business.⁵⁸ 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 ensure that displays of merchandise conform with RSA Ch. 571-B.
 - (5) Violation of the provisions of this subsection is declared to be a public nuisance, which shall be abated by the Town of Conway by way of civil abatement procedures.
 - (6) Nothing in this subsection 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.
- M. Mobile homes, travel trailers and recreational vehicles. One mobile home used as a residential unit is permitted on a lot in the district.⁵⁹
- (1) A mobile home, travel trailer or recreational vehicle may be permitted on the site of a construction project for one year, provided that it is a necessary convenience for the construction project and that no public safety or health hazards shall be created.
 - (2) One travel trailer or recreational vehicle may be stored on a lot, provided that it is not utilized for dwelling purposes.
 - (3) All mobile homes permitted under this subsection must be connected to a sewerage system and water source, both meeting minimum local and State of New Hampshire standards, as applicable and then promulgated; such systems shall be approved by the Selectmen or their designated agent and be maintained so as not to cause a health or sanitation hazard.
- N. Mobile home parks are allowed in the NCVC District, provided that they meet the following minimum requirements:
- (1) A mobile home park shall contain a minimum of 10 acres and shall have a minimum frontage of 60 feet on or a sixty-foot right-of-way to a public street.
 - (2) There shall be at least 10 mobile home spaces available at first occupancy.
 - (3) A minimum of 10,000 square feet shall be provided for each mobile home space.

58. Editor's Note: See Ch. 110, Site Plan Review.

59. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (4) Each mobile home shall be provided with a mobile home stand, surfaced with a material providing suitable stability to bear the weight of a mobile home at all times of the year and having adequate gradient or crown to provide for proper surface drainage.
 - (5) All State of New Hampshire requirements for mobile home parks shall be met.
 - (6) All mobile homes permitted under this subsection must be connected to a sewerage system and water source, both meeting minimum local and State of New Hampshire standards, as applicable and then promulgated; such systems shall be approved by the Selectmen or their designated agent and be maintained so as not to cause a health or sanitation hazard.
- O. Special exceptions. The following land uses shall be allowed if granted a special exception by the Zoning Board of Adjustment:
- (1) Mobile homes. The Zoning Board of Adjustment may grant a special exception for a mobile home on a lot on which a single-family residential structure exists if the following conditions are met:
 - (a) The mobile home shall be occupied only as the usual residence of the immediate family, including grandparents, parents and children, of the owner and/or spouse of the primary single-family residential structure on the lot, and the lot shall be at least one acre if served by municipal water and sewerage and at least two acres in all other cases; or the mobile home shall be occupied as the usual residence of a full-time agricultural employee and his immediate family, and the single-family residence shall be part of an owner-operated farm of 25 acres or more.
 - (b) The special exception shall terminate on a change of ownership or occupancy of either the mobile home or the primary residential structure.
 - (c) A permit shall be obtained from the Selectmen or their agent, which shall be renewed yearly to ensure compliance with the above conditions.
 - (2) Helicopters. A special exception may be granted for helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term nature. No approval for a special exception shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to Town residents and their property.

§ 190-20. Highway Commercial (HC) District.

The HC District is primarily designed to accommodate a compatible mixture of uses that complement commercial and residential uses typically associated with transportation corridors, large traffic flows and convenient access. The areas of this district that are serviced by municipal water and sewer can accommodate development at higher densities. Uses permitted

in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries. The HC District shall have the following bounds:

(1) Conway Village Area South of the Saco River.

(a) The HC District in the Conway Village area south of the Saco River shall have the following bounds (Map and Parcel numbers refer to 2003 Town of Conway Tax Maps):

Commencing at the point of intersection of the center lines of Route 16 and Map 277, Parcel 322 (Conway Scenic Railroad); thence southwesterly along the center line of Map 277, Parcel 322 (Conway Scenic Railroad) to the Albany Town Line;

thence northerly along the Albany Town Line to a point 400 feet northwesterly of the center line of Route 16; thence northeasterly parallel with and 400 feet from the center line of Route 16 to the eastern boundary of Map 277, Parcel 265; thence southeasterly along the eastern boundary of Map 277, Parcel 265 to the northern boundary of the Route 16 ROW; thence northeasterly along the northern boundary of the Route 16 ROW and continuing on the same bearing to the western boundary of Map 277, Parcel 271;

thence northerly along the western boundary of Map 277, Parcel 271 and Map 264, Parcel 23 to the northwest corner of Map 264, Parcel 23; thence easterly along the northern boundary of Map 264, Parcel 23 and continuing on the same bearing to the center line of Towle Road; thence northerly along the center line of Towle Road to the center line of Route 112 (Kancamagus Highway); thence southerly along the center line of Route 112 (Kancamagus Highway) to the center line of Route 16, and thence easterly along the center line of Route 16 to the point of commencement.

(b) District map. The HC District Map, consisting of areas south of the Saco River, is included as an attachment to this chapter.

(2) Conway Village area north of the Saco River.

(a) The HC District in the Conway Village area north of the Saco River shall have the following bounds (Map and Parcel numbers refer to 2003 Town of Conway Tax Maps):

Commencing at a point on the center line of Route 16 adjacent to the northwest corner of Map 262, Parcel 72; thence easterly through the northwest corner of Map 262, Parcel 72, along the northern boundary of Map 262, Parcel 72 and continuing on the same bearing to a point 400 feet from the center line of Route 16; thence southerly parallel with and 400 feet from the center line of Route 16 to the northern shore of the Saco River; thence westerly along the northern shore of the Saco River to the center line of East Side Road;

thence northerly along the center line of East Side Road to a point 400 feet northwest of the center line of Route 16; thence northerly parallel with and 400 feet from the center line of Route 16 to the southern boundary of Map 262, Parcel 64.01; thence easterly along the southern boundary of Map 262, Parcel 64.01 to the southern boundary of Map 262, Parcel 65; thence easterly along the southern boundary of Map 262, Parcel 65 and continuing on the same bearing to the center line of Route 16, and thence northerly along the center line of Route 16 to the point of commencement.

- (b) District map. The HC District Map, consisting of areas north of the Saco River, is included as an attachment to this chapter.
- (3) North Conway area south of North Conway Village. **[Amended 4-14-2015 by Art. 5]**
 - (a) The HC District in the North Conway area south of North Conway Village shall have the following bounds (Map and Parcel numbers refer to 2003 Town of Conway Tax Maps):

Commencing at the point on the thread of Kearsarge Brook 500 feet easterly of the center line of Route 16; thence southerly parallel with and 500 feet from the center line of Route 16 to the center line of Locust Lane; thence easterly along the center line of Locust Lane and continuing on the same bearing to the center line of the North-South Road; thence southerly along the center line of the North-South Road to a point adjacent to the southeast corner of Map 230, Parcel 51;

thence westerly through the southeast corner of Map 230, Parcel 51 and continuing along the southern boundary of Map 230, Parcel 51 to a point 500 feet from the center line of Route 16; thence southerly parallel with and 500 feet from the center line of Route 16 to the northern boundary of Map 235, Parcel 35; thence easterly along the northern boundary of Map 235, Parcel 35 to the center line of the North-South Road; thence southerly along the center line of the North-South Road to a point adjacent to the southeast corner of Map 235, Parcel 35; thence westerly through the southeast corner of Map 235, Parcel 35 and continuing along the southern boundary of Map 235, Parcel 35 to a point 500 feet from the center line of Route 16;

thence southerly parallel with and 500 feet from the center line of Route 16 to the northerly boundary of Map 235, Parcel 78; thence easterly along the northerly boundary of Map 235, Parcel 78 to its easterly boundary, common with the westerly boundary of Map 235, Parcel 70; thence southerly along the easterly boundary of Map 235, Parcel 78 and continuing to the southerly boundary of the Puddin' Pond Drive ROW; thence in a general westerly, then southerly direction along the southerly boundary of the Puddin' Pond Drive ROW to the northwest corner of Map 235, Parcel 82; thence easterly along the northern boundary of Map 235, Parcel 82 to the northeast corner of Map 235, Parcel 82, and following the same bearing to the center line of Map 219, Parcel 211 (former Maine Central Railroad); thence southerly along the

center line of Map 219, Parcel 211 (former Maine Central Railroad) to a point adjacent to the southwest corner of Map 252, Parcel 31;

thence northeasterly through the southwest corner of Map 252, Parcel 31 to the southwest corner of Map 252, Parcel 42; thence traversing Map 252, Parcel 42 easterly in a straight line to the northwest corner of Map 252, Parcel 47; thence southerly along the western boundary of Map 252, Parcel 47 and continuing on the same bearing to the center line of Map 219, Parcel 211 (former Maine Central Railroad); thence southeasterly along the center line of Map 219, Parcel 211 (former Maine Central Railroad) to the center line of East Conway Road; thence westerly along the center line of East Conway Road and continuing on the same bearing to a point 400 feet west of the center line of Route 302;

thence northerly parallel with and 400 feet from the center line of Route 302 to the western boundary of the proposed 9A Bypass ROW; thence southerly along the western boundary of the proposed 9A Bypass ROW to a point where an extension of the southern boundary line of Map 246, Parcel 17 intersects with the western boundary of the proposed 9A Bypass ROW; thence westerly in a straight line to the southeast corner of Map 246, Parcel 17; thence westerly along the southern boundary line of Map 246, Parcel 17 and continuing on the same bearing to the center line of Route 16; thence northerly along the center line of Route 16 to the intersection of the center line of Shaws Way;

thence west to a point 500 feet from the center line of Route 16; thence northerly parallel with and 500 feet from the center line of Route 16 to the southwestern boundary of Map 246, Parcel 20.001; thence northwesterly along the southwestern boundary of Map 246, Parcel 20.001 to the western boundary of Map 246, Parcel 22; thence northwesterly, southerly and westerly along the boundary of Map 246, Parcel 22 to the eastern shore of the Saco River; thence northerly along eastern shore of the Saco River to the center line of Map 218, Parcel 35 (Conway Scenic Railroad); thence northerly along the center line of Map 218, Parcel 35 (Conway Scenic Railroad) to the thread of Kearsarge Brook, and thence easterly along the thread of Kearsarge Brook to the point of commencement.

(b) District map. The HC District Map, consisting of areas south of North Conway, is included as an attachment to this chapter.

(4) North Conway area north of North Conway Village.

(a) The HC District in the North Conway area north of North Conway Village shall have the following bounds (Map and Parcel numbers refer to 2003 Town of Conway Tax Maps):

Commencing at the intersection of the center line of Route 16 and the Bartlett Town Line; thence easterly along the Bartlett Town Line to a point 300 feet from the center line of Route 16; thence southerly parallel with and 300 feet from the center line of Route 16 to the northern boundary of Map

215, Parcel 58; thence easterly along the northern boundary of Map 215, Parcel 58 and the southern boundary of Map 215, Parcel 51 to the southeast corner of Map 215, Parcel 51; thence northerly to the northeast corner of Map 215, Parcel 51;

thence easterly along the northern boundary of Map 215, Parcel 61 to the center line of Map 215, Parcel 81 (Conway Scenic Railroad); thence southerly along the center line of Map 215, Parcel 81 (Conway Scenic Railroad) to a point 300 feet from the center line of Route 16; thence northerly parallel with and 300 feet from the center line of Route 16 to the thread of Randall Brook; thence southerly along the thread of Randall Brook to the center line of River Road; thence southerly in a straight line to the northwest corner of Map 218, Parcel 52; thence southerly along the western boundary of Map 218, Parcel 52 to a point 200 feet from the center line of River Road;

thence westerly parallel with and 200 feet from the center line of River Road to the western boundary line of Map 218, Parcel 53; thence northerly along the western boundary line of Map 218, Parcel 53 and continuing on the same bearing to the center line of River Road; thence westerly along the center line of River Road to a point adjacent to the southeast corner of Map 215, Parcel 8; thence northerly in a straight line to the southeast corner of Map 215, Parcel 8;

thence northerly along the eastern boundary of Map 215, Parcel 8 to the southern boundary of Map 215, Parcel 33; thence westerly along the southern boundary of Map 215, Parcel 33 to the eastern shore of the Saco River; thence northerly along the eastern shore of the Saco River to the thread of Foster Brook; thence northerly along the thread of Foster Brook to the thread of Trout Brook; thence northerly along the thread of Trout Brook to the Bartlett Town Line, and thence easterly along the Bartlett Town Line to the point of commencement.

- (b) District map. The HC District Map, consisting of areas north of North Conway Village, is included as an attachment to this chapter.

B. Lot size and density.

- (1) Lots serviced by a municipal water system and municipal sewerage system shall have at least 1/2 acre for the first unit that may be located thereon and at least 10,000 square feet for each additional unit on the same lot.
- (2) Lots serviced by a municipal water system shall have at least 1/2 acre for each unit that may be located thereon.
- (3) The minimum lot size for keeping domestic farm animals shall be one acre.
- (4) All other lots shall have at least one acre for each unit that may be located thereon.
- (5) Special exceptions.

- (a) In order to preserve and safeguard Conway's older homes, but also allow for their conversion to multifamily dwellings, the Zoning Board of Adjustment may grant special exceptions for residential structures and accessory structures on the same conforming lot, provided that:
- [1] Substantially all of the structure is at least 50 years old.
 - [2] Modification of the interior does not exceed four units.
 - [3] No significant changes to the exterior lines or architectural detail are made which would diminish the historical or architectural heritage of the structure.
 - [4] Adequate area is available for parking and sewage disposal.
 - [5] Accessory structures must have at least 300 square feet of living space per unit suitable for conversion to a dwelling unit and not conflict with the purpose and intent of this section.
- (b) In order to help provide year-round rental housing, the Zoning Board of Adjustment may grant a special exception for one accessory apartment as an accessory use to an owner-occupied single-family dwelling, on any size lot, subject to the following conditions:
- [1] The accessory apartment is designed to ensure architectural compatibility with the neighborhood.
 - [2] Sufficient parking is located on site.
- (c) The Zoning Board of Adjustment may grant a special exception for up to 12 dwelling units per acre, in the Village Commercial and Highway Commercial Districts under the following conditions:
- [1] Each structure must contain at least three dwelling units.
 - [2] Not less than 25% of all dwelling units shall be designated as full-time rental apartments. At the time of Planning Board approval, the units designated as full-time rental apartments must be shown on the plan with a condition that they are leased for 20 years from the date of Planning Board approval by the developer, and a deed restriction shall be recorded in the Registry of Deeds as evidence of the same.
 - [3] All lots must be serviced by municipal water and sewerage.
 - [4] Rental/Deed-restricted units shall be a maximum of 1,000 square feet and a minimum of 300 square feet.
 - [5] Architectural design plans must be submitted to the Zoning Board of Adjustment at the time of application to ensure compliance with the zoning regulations.

- C. Frontage. All lots must front on a state or Town highway with a Class I, II, III, IV or V classification, a private road constructed to Town standards as required by the Planning Board or a Class VI road proposed to be improved as stipulated by the Planning Board. To qualify as frontage, the lot must have access rights to the subject highway or road. The minimum distance for frontage on a road shall be:
- (1) One hundred fifty feet.
 - (2) One hundred feet for lots which front entirely on cul-de-sacs which meet the design requirements set forth in Chapter 130, Subdivision of Land, Article X, Detail #4, and approved by the Planning Board.
- D. Setbacks. The minimum front setback shall be 25 feet from a platted right-of-way, or 100 feet from the platted right-of-way of the North-South Road between the extension of the center line of Barnes Road and the center line of Depot Road and the minimum side or back setback shall be 10 feet.
- E. Structure and building height. Structure height is restricted to achieve several purposes. The Town is economically dependent upon tourism and attracts visitors with its rural character and mountainous setting. Maintaining the traditional scale and style of structures aids in preserving the character of the Town. Peaked roofs are encouraged because it is the traditional roof style in the Town. (Care has been taken to prepare language which does not unduly encourage the use of flat-roof buildings.) The height restriction keeps structures and buildings below treetop level, which is typically from 60 feet to 100 feet for mature maple, beech, birch and pine trees. Structure height below treetop level helps maintain the rural atmosphere and preserve the viewsheds throughout the Town. In addition, the height limit minimizes difficulty in providing fire protection. The following shall apply throughout the Town:
- (1) Structure height shall not exceed 55 feet for any structure, except wind energy systems permitted in accordance with Chapter 179 of the Conway Code.⁶⁰
 - (2) Building height shall not exceed 45 feet.
 - (3) Church steeples may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:
 - (a) The space enclosed in the steeple is not usable floor space other than for the maintenance and structural purposes of the steeple.
 - (b) The height of the steeple is appropriate to the design and size of the church.
- F. Signs.
- (1) Freestanding sign. There shall be no more than one freestanding sign per lot, except that where a lot fronts on two or more public rights-of-way and has two entrances at least 500 feet apart, two freestanding signs shall be permitted.

60. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (a) The size of the message area shall not exceed 40 square feet.
- (b) The height of the message area shall not exceed 15 feet above the undisturbed ground.
- (c) The width of the message area shall not exceed 12 feet.
- (d) Setbacks.
 - [1] The minimum setback shall be 25 feet from a platted right-of-way, or 100 feet from the platted right-of-way of the North-South Road between the extension of the center line of Barnes Road and the center line of Depot Road and five feet from all other property boundaries.
 - [2] Freestanding sign setbacks may be reduced to 10 feet from a platted right-of-way if the size of the message area is reduced to 30 square feet maximum. All of the dimensional requirements, except the size of the message area and the minimum front setback, shall be required of these signs.
- (e) Where an existing nonconforming sign serves more than one commercial establishment, each having at least 60,000 square feet, or residential development, each comprised of at least 20 residential units sharing common access, the size of the message area may be expanded based upon 40 square feet per commercial establishment and 20 square feet per residential development; provided, however, that the total message area shall not exceed 80 square feet in any case.
- (f) Projecting signs, including sign structure, not to exceed 20 square feet in the Highway Commercial Districts, and six square feet in the Village Commercial Districts, are permitted in lieu of a freestanding sign. The sign shall be at least 10 feet above the ground; the top of the sign shall be no more than 15 feet above the ground.
- (g) The Zoning Board of Adjustment may grant the following special exceptions:
 - [1] For two or more businesses located in a single building or within attached buildings and where the businesses share a common pedestrian entrance, an additional freestanding sign may be permitted for use as a directory sign, provided that the following conditions are met:
 - [a] The sign shall be used only to identify and locate businesses within;
 - [b] The message area shall not exceed 12 square feet;
 - [c] The height of the message area shall not exceed 20 feet above the undisturbed ground;
 - [d] The sign shall meet all setbacks; and

- [e] The additional wall sign permitted by special exception under Subsection F(2)(d)[2] is not used.
- [2] Where existing buildings are set back from the right-of-way less than the setback required for freestanding signs in Subsection F(1), the right-of-way setback of the freestanding sign may be reduced from 25 feet to any lesser amount down to five feet, provided that the following conditions are met:
 - [a] The message area shall be reduced to not more than 20 square feet;
 - [b] The sign shall not obstruct vehicular or pedestrian traffic;
 - [c] The sign shall not obstruct the line-of-sight for traffic entering or exiting the site; and
 - [d] The sign shall not unduly obstruct the visibility of other signs or property in the area.
- (h) One appendage may be attached to a freestanding or projecting sign, and the message area of this appendage shall be considered part of the total message area of the sign. No appendage shall be permitted on supports nor directional signs.
- (2) Wall sign. For lots without multiple commercial tenants, each lot shall be permitted one wall sign. For lots with multiple commercial tenants, each commercial tenant shall be permitted one wall sign. All wall signs shall be located on a wall which is common to both the interior and exterior of the business identified by the sign. The height of the message area shall not exceed the greater of 20 feet from the undisturbed ground or a height equal to 75% of the total height of the building, nor shall it exceed the height of the wall to which it is attached. The message area of the wall sign shall be based on the following formulas, subject to increase by bonus granted per Subsection F(12)(c).
 - (a) For floor areas up to and including 50,000 square feet, the maximum message area shall be calculated as follows: $20 + (\text{total square feet floor area} \times 0.0016)$.
 - (b) If the floor area of the business is greater than 50,000 square feet, the maximum wall sign message area shall be 100 square feet. A business with a floor area greater than 50,000 square feet shall be permitted one additional wall sign if it has two or more exterior public or customer entrances, excluding emergency entrances, that are at least 20 feet apart. The message area of the second wall sign shall not exceed 20 square feet.
 - (c) The Zoning Board of Adjustment may grant the following special exceptions:
 - [1] For a major business in a shopping center or mall that does not have wall frontage facing its primary parking lot, one additional wall sign may be permitted, provided that the following conditions are met:

- [a] The size of the message area shall not exceed 40 square feet;
 - [b] The sign shall be located on a wall facing the primary parking lot;
 - [c] Total wall sign area on the wall shall not exceed 10%; and
 - [d] All relevant height restrictions specified in Subsection F(2) apply.
- [2] For two or more businesses located in a single building or within attached buildings and where the businesses share a common pedestrian entrance, an additional wall sign may be permitted, subject to the following:
- [a] The sign shall be used only to identify and locate the businesses within;
 - [b] The message area shall not exceed 12 square feet;
 - [c] The sign shall be located immediately adjacent to the common entrance; and
 - [d] The additional freestanding sign permitted by special exception under Subsection F(1)(g)[1] is not used.
- (3) Sign content. The Town has no intention of restricting individual free speech, but the Town does recognize its right to place reasonable restrictions upon commercial speech. Further, the Town wishes to prevent excessive or unnecessary signage along road corridors. In keeping with this reasoning, off-site commercial signs shall be prohibited.
- (4) Signs in platted ROW. Except as otherwise permitted below, no signs shall be permitted within any platted right-of-way:
- (a) Special promotional banners that cross a public or private road, with a message area of 200 square feet or less, for public or institutional events.
 - (b) One directional sign to identify the entrance to a particular subdivision or development, not to exceed 12 square feet, and not to exceed eight feet in height nor six feet in width. For subdivisions which are approved by the Planning Board and which have nonresidential uses, this sign may identify businesses located within the subdivision.
- (5) Temporary event signage. In addition to signage otherwise permitted herein, temporary events may display up to 20 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:
- (a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;
 - (b) Maximum sign height shall be eight feet; and

- (c) Maximum sign width shall be 10 feet.
- (6) Special event signage. In addition to signage otherwise permitted herein, special events may display up to 40 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:
- (a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;
 - (b) Maximum sign height shall be eight feet; and
 - (c) Maximum sign width shall be 10 feet.
- (7) Signs exempt from property line setbacks and no permit required:
- (a) Signs with a message area of one square foot or less which bear only property numbers, post office numbers, names of occupants of the premises, other noncommercial identification, or with one of the following messages: "open"; "closed"; "vacancy"; or "no vacancy."
 - (b) Directional signs with a message area of four square feet or less, to indicate entrance and/or exit driveways.
 - (c) Legal notices, such as "no trespassing" signs, with a message area of 12 square feet or less.
 - (d) Business name and directional signs with a message area of three square feet or less which are located over doorways. Such signs may project from the wall surface. **[Amended 4-14-2015 by Art. 3]**
 - (e) Flags.
 - (f) One portable A-frame sign per lot of record is permitted in the district. It may be displayed during business hours only, it shall have a message area of six square feet or less, no illumination of the sign is permitted, and no appendages to the sign are permitted.
 - (g) Window signs which are affixed to the interior of the window, not to cover more than 50% of any window.
 - (h) One sign identifying lawn, garage or barn sales, with a message area of 12 square feet or less, to be erected not more than two days prior to the event and removed within one day of the end of the event.
 - (i) Sign for a government election, with time limits as specified in state law, or if no state law applies, then erected no more than 12 weeks prior to the election and removed within two weeks following the election.

- (j) Nonilluminated sign advertising the sale or lease of the premises upon which the sign is located, with a message area of 16 square feet or less in all districts.
 - (k) Special promotional signs for public or institutional events, with a message area of 40 square feet or less.
 - (l) Directional signs to help locate facilities for disabled persons, with a message area not to exceed four square feet, as required for compliance with the Americans with Disabilities Act of 1990.
 - (m) A home occupation may display a nonilluminated outdoor sign not exceeding three square feet in size.
 - (n) One real estate sign to identify lots for sale at each entrance to the subdivision in which the subject lots are located, not to exceed 12 square feet, and not to exceed eight feet in height nor six feet in width. **[Added 4-14-2015 by Art. 4]**
- (8) Signs subject to property line setbacks and no permit required:
- (a) For a religious institution, nonprofit organization, public service agency, public school or municipal building, one announcement board, with a message area of 12 square feet or less.
 - (b) For fraternal or social clubs, local service and philanthropic organizations to identify meeting locations, one sign with a message area of three square feet or less.
 - (c) Signs in parking lots to identify aisles, handicapped spaces, and reserved spaces.
 - (d) For construction in progress, one sign identifying the owner, architect, contractor and/or developer, to be removed within one month of completion of the project, with a message area of 12 square feet or less.
 - (e) Signs which convey only a noncommercial message, including but not limited to ideological, political, social, cultural, or religious messages, with a message area of 12 square feet or less.
- (9) Permit required for all other signs.
- (a) Sign application process. Any action requiring a sign permit shall be permitted only upon the application to and approval of the Zoning Officer. Applications shall use the following process:
 - [1] An application form for each sign shall be completed and signed by the owner of the property.
 - [2] A complete application shall also include the following:

- [a] Fee as set from time to time by the Board of Selectmen;⁶¹
 - [b] Written description of the proposed type, size, height, setback, sign and supporting structure materials, and illumination of the sign;
 - [c] Statement specifically addressing compliance with off-site commercial sign restrictions; and
 - [d] Analysis regarding impact of safety, specifically addressing lighting/glare and line-of-sight blockage for vehicles and pedestrians.
- [3] Upon receipt of a complete application, the Zoning Officer shall have up to 14 days to either approve or deny the application.
 - [4] If the application is denied, the Zoning Officer shall issue a written decision stating the reason(s) for denial.
 - [5] If the application is approved, the Zoning Officer shall issue an approval for the erection of a sign. The sign permit is valid for one year from date of approval. If the sign is not erected within one year, the permit shall expire.
- (10) Design standards. The following design standards shall be required to ensure compliance with the intent of these regulations:
- (a) Illumination. Signs shall not be illuminated from within; signs may be illuminated only by external light. Lighting shall be affixed to and, for dimensional purposes, considered part of the sign structure. Lighting shall be located, directed and/or shielded such that it only sheds light downward and is limited to the message display area. The lighting sources shall be of white light and be energy-efficient fixtures when possible. Fixtures shall be located, directed and/or shielded such that no direct light emissions are visible at any point along the property boundary, nor shall they be distracting to vehicular traffic.
 - (b) Neon. Neon lighting shall be prohibited.
 - (c) Motion. Moving signs, or signs which give the appearance of motion, shall be prohibited.
 - (d) Flashing/Blinking. Flashing, blinking, alternating-type or digital-type lighting such as a digital message board shall be prohibited.
 - (e) Structural supports and base. The support and base structure of a sign shall not exceed 50% of the maximum permitted message area of the sign. Such supports and base shall be measured on the single side or face having the greatest surface area. If the sign structural supports and base are made of wood, brick and/or stone, with only incidental use of other materials, the

61. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

structure/base size limit shall be increased to 100% of the maximum permitted message area of the sign. The top of the supporting structure of a freestanding sign shall extend no farther above the top of the message area than 1/3 of the maximum permitted height of the message area.

- (f) No sign shall project over a street or sidewalk, except for projecting signs as permitted herein.
 - (g) No sign shall be placed in such a position as to endanger vehicular or pedestrian traffic by obstructing a clear view, by causing confusion with government signs and signals, or by any other means.
- (11) Movable signs. Movable signs shall be prohibited. No vehicle, including parts thereof, trailers, and other accessories, shall be used as a means of circumventing the purpose and intent of this chapter. A vehicle displaying a commercial message which is licensed, registered and inspected shall be exempt from these sign regulations if it is regularly and customarily used to transport persons or property for the business.
- (12) Flags, banners, pennants, etc.
- (a) In addition to the signs otherwise permitted by this chapter, there may be displayed, on any lot, up to three flags displaying any otherwise legal symbol, message or information, commercial or noncommercial; except that off-site commercial flags shall be restricted as set forth in this chapter. No such flag shall exceed 24 square feet measured by one face of the flag only. Any such flag shall be mounted directly to one flagpole. A "flagpole" is a pole intended and placed solely for the support and display of a flag or flags, and does not include utility poles, light poles, trees or other sign structures. All flagpoles shall be erected vertically, or within 45° of the vertical. No portion of any flagpole shall be sited within 10 feet of a property line. No flagpole shall extend more than 35 feet in height above grade or, if mounted on a building, 55 feet above the average finished grade of the building.
 - (b) Banners, feather flags, pennants, searchlights, twirling signs, balloons or other gas-filled figures, and other such materials shall be prohibited, except as specified herein. **[Amended 4-14-2015 by Art. 2]**
 - (c) This subsection shall not be construed to prevent any sign otherwise permitted by this chapter, and which conforms to all sign requirements of this chapter, from taking the form of a flag or other fabric. Banners may be used to cover part or all of an existing freestanding, projecting or wall sign to advertise temporary events. The net effect of this activity shall not increase the message area of any permitted sign or signs.
- (13) Maintenance. All surfaces and supporting structures of signs, whether erected prior to the effective date of this chapter or not, shall be maintained in a safe and sightly condition to the satisfaction of the Board of Selectmen or its authorized agent. A permit is required for any maintenance except the following: repainting; other surface renewal; or change of message on the same surface.

- (14) Sign incentives. The purpose of these sign incentives is to reduce visual clutter and distraction from the natural environment caused by signs. This system offers design and size bonuses as a means of encouraging certain site and sign designs.
- (a) Any freestanding, projecting or wall sign which conforms to all provisions of this chapter shall be permitted to utilize up to 20% of the maximum permitted message area for changeable copy.
 - (b) A freestanding sign which conforms to all provisions of this chapter shall be permitted to increase its message area by up to 20 square feet above that otherwise permitted under this chapter if the lot has at least 300 feet but less than 500 feet of frontage on a Class V or better road; or by up to 40 square feet above that otherwise permitted under this chapter if the lot has 500 feet or more of frontage on a Class V or better road. In no case, however, shall such increases cause any sign message area to exceed 80 square feet. The applicant shall submit a satisfactory written declaration, to be recorded at the Carroll County Registry of Deeds, in which the owner, its heirs, successors and assigns agree that, if the frontage of the property is subsequently reduced below that amount required for the bonus granted, the sign shall be removed or replaced with a sign which fully conforms with the provisions of this chapter; and that no subdivision of a lot shall be permitted unless a freestanding sign erected under this provision continues to conform to this provision; and such agreement must be legally enforceable by the Town of Conway.⁶²
 - (c) On a site where the freestanding sign conforms to all provisions of this chapter, the maximum wall sign message area permitted per Subsection F(2) may be increased by 50%.
- G. Restrictions regarding home occupations. A home occupation is considered accessory to a residential use and shall not occupy an area greater than 50% of the total floor area of the residential unit or 1,500 square feet, whichever is less. Home occupations are subject to the following provisions and restrictions:
- (1) The home occupation shall be carried on by persons who live in the principal residential unit full time. Two employees living off-premises are permitted.
 - (2) The home occupation shall be carried on within the principal residential unit or an approved accessory structure.
 - (3) Exterior storage of commercial vehicles, equipment or materials or variation from the residential character of the principal residential unit shall not be permitted.
 - (4) The home occupation shall create no unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or other nuisance or threat to the health of the abutters.
 - (5) Adequate off-street parking shall be provided.

62. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (6) A home occupation shall not generate excessive traffic or traffic in greater volumes than would normally be expected in a residential neighborhood.
 - (7) A home occupation may display a sign conforming to Subsection F(7)(m) above.⁶³
 - (8) A change-of-use permit to operate a home occupation is required before startup of operation.
 - (9) Retail or wholesale sales are only permitted for those items raised or made on the premises.
 - (10) A home occupation shall not be offensive to the character of the neighborhood or decrease abutting property values.
- H. Farm and nursery stands. Farm and nursery stands for selling indigenous produce or plants are considered temporary structures and are permitted, provided that:
- (1) Farm stands shall not exceed 1,200 square feet of gross floor area unless granted site plan review approval by the Planning Board.⁶⁴
 - (2) Three off-street parking spaces shall be required to be provided for structures up to 100 square feet in size. Additional parking shall be required at the rate of one space per 200 square feet over 100 square feet.
 - (3) Wall signs shall not exceed 10 square feet in size. One portable A-frame sign per lot, not to exceed six square feet, shall be allowed to be displayed during business hours only.
 - (4) All structures, parking areas and signs shall meet the setback requirements established herein.
- I. Yard sales. Yard sales shall be permitted, provided that no one household holds sales on more than six days per calendar year.⁶⁵
- J. Mobile homes, travel trailers and recreational vehicles. One mobile home used as a residential unit is permitted on a lot in the district.⁶⁶
- (1) A mobile home, travel trailer or recreational vehicle may be permitted on the site of a construction project for one year, provided that it is a necessary convenience for the construction project and that no public safety or health hazards shall be created.
 - (2) One travel trailer or recreational vehicle may be stored on a lot, provided that it is not utilized for dwelling purposes.

63. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

64. Editor's Note: See Ch. 110, Site Plan Review.

65. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

66. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (3) All mobile homes permitted under this subsection must be connected to a sewerage system and water source, both meeting minimum local and State of New Hampshire standards, as applicable and then promulgated; such systems shall be approved by the Selectmen or their designated agent and be maintained so as not to cause a health or sanitation hazard.
- K. Mobile home parks are allowed in the district, provided that they meet the following minimum requirements:⁶⁷
- (1) A mobile home park shall contain a minimum of 10 acres and shall have a minimum frontage of 60 feet on or a sixty-foot right-of-way to a public street.
 - (2) There shall be at least 10 mobile home spaces available at first occupancy.
 - (3) A minimum of 10,000 square feet shall be provided for each mobile home space.
 - (4) Each mobile home shall be provided with a mobile home stand, surfaced with a material providing suitable stability to bear the weight of a mobile home at all times of the year and having adequate gradient or crown to provide for proper surface drainage.
 - (5) All State of New Hampshire requirements for mobile home parks shall be met.
 - (6) All mobile homes permitted under this subsection must be connected to a sewerage system and water source, both meeting minimum local and State of New Hampshire standards, as applicable and then promulgated; such systems shall be approved by the Selectmen or their designated agent and be maintained so as not to cause a health or sanitation hazard.
- L. Commercial amusements. Because the Town wishes to maintain a character which protects the long-term, high-quality environment, which will ultimately protect tourism in the valley, commercial amusements are hereby regulated to prevent adverse impacts on the Town's character and environment. All commercial amusements on a lot shall be located within an enclosed building, and the following shall apply:
- (1) Commercial amusements may occupy 10% or less of the floor space of a business in any business district, by permit of the Zoning Officer and without site plan review by the Planning Board.
 - (2) Commercial amusements may occupy more than 10% of the floor space of a business in any business district, subject to the condition that no noise, light or other adverse impact outside the building shall be caused by the amusements or their use. Site plan review approval by the Planning Board shall be required.⁶⁸
- M. Outdoor commercial activities such as commercial amusement facilities, drive-up windows, remote outdoor speaker systems, interactive signs, menu boards or other similar devices with speakers, any of which operate in close proximity to residential

67. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

68. Editor's Note: See Ch. 110, Site Plan Review.

property, constitute a nuisance due to unconfined noise and light, as well as operating hours that are not compatible with the residential environment.

- (1) A commercial amusement facility, as defined herein, that operates outdoor amusements and that seeks to expand that use under § 190-31, Nonconformity, shall locate said amusements at least 300 feet from the closer of the residential zone boundary or from the nearest residential property line, and if the time of operation begins before 9:00 a.m. or ends after 5:00 p.m. the distance shall be at least 600 feet. Substantial effective buffering against sound and light shall be provided in either case. These setbacks may be waived by the Planning Board during the site plan review process if the property abuts the Floodplain Conservation District and it can be shown that there will be no sound or light impact on residential use.
- (2) Commercial activities that operate drive-up windows, remote outdoor speakers, interactive signs, menu boards or other similar devices with speakers that permit customers or the general public to communicate with personnel within the commercial building or other location on the commercial property shall be at least 300 feet from the closer of the residential zone boundary or from the nearest residential property line, and if the time of operation begins before 9:00 a.m. or ends after 5:00 p.m. the separation distance shall be at least 600 feet. Substantial effective buffering against sound and light shall be provided in either case. These setbacks may be waived by the Planning Board during the site plan review process if the property abuts the Floodplain Conservation District and it can be shown that there will be no sound or light impact on residential use.

N. Sexually oriented businesses.

- (1) Purpose and intent. It is the purpose of this subsection 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 subsection 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 subsection have neither the purpose nor the effect of imposing limitations or restrictions on the context of any communicative materials, including sexually oriented materials; and it is not the intent nor effect of this subsection 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 subsection to condone or legitimize the distribution of obscene material.
- (2) Restrictions. Sexually oriented businesses shall only be permitted in the business districts. Sexually oriented businesses shall not be permitted within 1,000 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 50% of the patrons, a public park, or recreation center or another sexually oriented business.

- (3) Measure of distance. The 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 any sexually oriented business is proposed or exists to the nearest property boundary line of the lot containing any other named point of reference.
 - (4) Site plan approval by the Conway Planning Board shall be a prerequisite for the establishment of a sexually oriented business.⁶⁹ 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 ensure that displays of merchandise conform with RSA Ch. 571-B.
 - (5) Violation of the provisions of this subsection is declared to be a public nuisance, which shall be abated by the Town of Conway by way of civil abatement procedures.
 - (6) Nothing in this subsection 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.
- O. Special exceptions. The following land uses shall be allowed if granted a special exception by the Zoning Board of Adjustment:
- (1) Mobile homes. The Zoning Board of Adjustment may grant a special exception for a mobile home on a lot on which a single-family residential structure exists if the following conditions are met:
 - (a) The mobile home shall be occupied only as the usual residence of the immediate family, including grandparents, parents and children, of the owner and/or spouse of the primary single-family residential structure on the lot, and the lot shall be at least one acre if served by municipal water and sewerage and at least two acres in all other cases; or the mobile home shall be occupied as the usual residence of a full-time agricultural employee and his immediate family, and the single-family residence shall be part of an owner-operated farm of 25 acres or more.
 - (b) The special exception shall terminate on a change of ownership or occupancy of either the mobile home or the primary residential structure.
 - (c) A permit shall be obtained from the Selectmen or their agent, which shall be renewed yearly to ensure compliance with the above conditions.
 - (2) Helicopters. A special exception may be granted for helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term

69. Editor's Note: See Ch. 110, Site Plan Review.

nature. No approval for a special exception shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to Town residents and their property.

§ 190-21. Regional Commercial (RC) District.

(Reserved)

§ 190-22. Industrial-1 (I1) District. [Amended 4-14-2015 by Art. 2, Art. 3, Art. 4⁷⁰]

The I1 District is primarily designed to accommodate a compatible mixture of uses that complement commercial and light industrial uses. Residential uses, hotels and motels are specifically prohibited in this district. This district is serviced by municipal water and sewer and can accommodate development at higher densities. Uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries.

- (1) The I1 District shall have the following bounds (Map and Parcel numbers refer to 2003 Town of Conway Tax Maps):

Commencing at a point being the northeast corner of Map 277, Parcel 136; thence southerly along the eastern boundary of Map 277, Parcel 136 to the northern shore of Pequawket Pond; thence southwesterly along the shore of Pequawket Pond to the southwest corner of Map 277, Parcel 144; thence northerly along the western boundary of Map 277, Parcel 144 and continuing through the northwest corner of Map 277, Parcel 144 to a point on the center line of Hobbs Street; thence easterly along the center line of Hobbs Street to a point adjacent to the southwest corner of Map 277, Parcel 182;

thence northerly to the southwest corner of Map 277, Parcel 182, thence northerly along the western boundary of Map 277, Parcel 182 to the southwest corner of Map 277, Parcel 191; thence northerly along the western boundary of Map 277, Parcel 191 to the southern boundary of the West Main Street ROW; thence easterly along the southern boundary of the West Main Street ROW to the northeast corner of Map 277, Parcel 191; thence southerly along the eastern boundary of Map 277, Parcel 191 to the northwest corner of Map 277, Parcel 188; thence easterly along the northern boundary of Map 277, Parcel 188 and continuing through the northeast corner of Map 277, Parcel 188 to the center line of Hobbs Street; thence northerly along the center line of Hobbs Street to the southern boundary of the West Main Street ROW; thence easterly along the southern boundary of the West Main Street ROW to the point of commencement.

- (2) District map. The I1 District Map is included as an attachment to this chapter.

- B. Lot size and density. All lots shall have at least 1/2 acre for the first unit that may be located thereon and at least 10,000 square feet for each additional unit on the same lot.

70. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- C. Frontage. All lots must front on a state or Town highway with a Class I, II, III, IV or V classification, a private road constructed to Town standards as required by the Planning Board or a Class VI road proposed to be improved as stipulated by the Planning Board. To qualify as frontage, the lot must have access rights to the subject highway or road. The minimum distance for frontage on a road shall be:
- (1) One hundred fifty feet.
 - (2) One hundred feet for lots which front entirely on cul-de-sacs which meet the design requirements set forth in Chapter 130, Subdivision of Land, Article X, Detail #4, and approved by the Planning Board.
- D. Setbacks. The minimum front setback shall be 25 feet and the minimum side or back setback shall be 10 feet. Where the I1 District borders the RA District, a twenty-five-foot setback shall be required for that portion of the I1 lot abutting the RA lot.
- E. Structure and building height. Structure height is restricted to achieve several purposes. The Town is economically dependent upon tourism and attracts visitors with its rural character and mountainous setting. Maintaining the traditional scale and style of structures aids in preserving the character of the Town. Peaked roofs are encouraged because it is the traditional roof style in the Town. (Care has been taken to prepare language which does not unduly encourage the use of flat-roof buildings.) The height restriction keeps structures and buildings below treetop level, which is typically from 60 feet to 100 feet for mature maple, beech, birch and pine trees. Structure height below treetop level helps maintain the rural atmosphere and preserve the viewsheds throughout the Town. In addition, the height limit minimizes difficulty in providing fire protection. The following shall apply throughout the Town:
- (1) Structure height shall not exceed 55 feet for any structure, except wind energy systems permitted in accordance with Chapter 179 of the Conway Code.
 - (2) Building height shall not exceed 45 feet.
 - (3) Church steeples may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:
 - (a) The space enclosed in the steeple is not usable floor space other than for the maintenance and structural purposes of the steeple.
 - (b) The height of the steeple is appropriate to the design and size of the church.
- F. Signs.
- (1) Freestanding sign. There shall be no more than one freestanding sign per lot, except that where a lot fronts on two or more public rights-of-way and has two entrances at least 500 feet apart, two freestanding signs shall be permitted.
 - (a) The size of the message area shall not exceed 40 square feet.
 - (b) The height of the message area shall not exceed 15 feet above the undisturbed ground.

- (c) The width of the message area shall not exceed 12 feet.
- (d) Setbacks.
 - [1] The minimum setback shall be 25 feet from a platted right-of-way, and five feet from all other property boundaries.
 - [2] Freestanding sign setbacks may be reduced to 10 feet from a platted right-of-way, if the size of the message area is reduced to 30 square feet maximum. All of the dimensional requirements, except the size of the message area and the minimum front setback, shall be required of these signs.
- (e) Where an existing nonconforming sign serves more than one commercial establishment, each having at least 60,000 square feet, the size of the message area may be expanded based upon 40 square feet per commercial establishment; provided, however, that the total message area shall not exceed 80 square feet in any case.
- (f) Projecting signs are not permitted in the I1 District.
- (g) The Zoning Board of Adjustment may grant the following special exceptions:
 - [1] For two or more businesses located in a single building or within attached buildings and where the businesses share a common pedestrian entrance, an additional freestanding sign may be permitted for use as a directory sign, provided that the following conditions are met:
 - [a] The sign shall be used only to identify and locate businesses within;
 - [b] The message area shall not exceed 12 square feet;
 - [c] The height of the message area shall not exceed 20 feet above the undisturbed ground;
 - [d] The sign shall meet all setbacks; and
 - [e] The additional wall sign permitted by special exception under Subsection F(2)(d)[2] is not used.
 - [2] Where existing buildings are set back from the right-of-way less than the setback required for freestanding signs in Subsection F(1), the right-of-way setback of the freestanding sign may be reduced from 25 feet to any lesser amount down to five feet, provided that the following conditions are met:
 - [a] The message area shall be reduced to not more than 20 square feet;
 - [b] The sign shall not obstruct vehicular or pedestrian traffic;
 - [c] The sign shall not obstruct the line-of-sight for traffic entering or exiting the site; and

- [d] The sign shall not unduly obstruct the visibility of other signs or property in the area.
- (h) One appendage may be attached to a freestanding or projecting sign, and the message area of this appendage shall be considered part of the total message area of the sign. No appendage shall be permitted on supports nor directional signs.
- (2) Wall sign. For lots without multiple commercial tenants, each lot shall be permitted one wall sign. For lots with multiple commercial tenants, each commercial tenant shall be permitted one wall sign. All wall signs shall be located on a wall which is common to both the interior and exterior of the business identified by the sign. The height of the message area shall not exceed the greater of 20 feet from the undisturbed ground or a height equal to 75% of the total height of the building, nor shall it exceed the height of the wall to which it is attached. The message area of the wall sign shall be based on the following formulas, subject to increase by bonus granted per Subsection F(12)(c):
- (a) For floor areas up to and including 50,000 square feet, the maximum message area shall be calculated as follows: $20 + (\text{total square feet floor area} \times 0.0016)$.
- (b) If the floor area of the business is greater than 50,000 square feet, the maximum wall sign message area shall be 100 square feet. A business with a floor area greater than 50,000 square feet shall be permitted one additional wall sign if it has two or more exterior public or customer entrances, excluding emergency entrances, that are at least 20 feet apart. The message area of the second wall sign shall not exceed 20 square feet.
- (c) The Zoning Board of Adjustment may grant the following special exceptions:
- [1] For a major business in a shopping center or mall that does not have wall frontage facing its primary parking lot, one additional wall sign may be permitted, provided that the following conditions are met:
- [a] The size of the message area shall not exceed 40 square feet;
- [b] The sign shall be located on a wall facing the primary parking lot;
- [c] Total wall sign area on the wall shall not exceed 10%; and
- [d] All relevant height restrictions specified in Subsection F(2) apply.
- [2] For two or more businesses located in a single building or within attached buildings and where the businesses share a common pedestrian entrance, an additional wall sign may be permitted, subject to the following:
- [a] The sign shall be used only to identify and locate the businesses within;
- [b] The message area shall not exceed 12 square feet;

- [c] The sign shall be located immediately adjacent to the common entrance; and
 - [d] The additional freestanding sign permitted by special exception under Subsection F(1)(g)[1] is not used.
- (3) Sign content. The Town has no intention of restricting individual free speech, but the Town does recognize its right to place reasonable restrictions upon commercial speech. Further, the Town wishes to prevent excessive or unnecessary signage along road corridors. In keeping with this reasoning, off-site commercial signs shall be prohibited.
 - (4) Signs in platted ROW. Except as otherwise permitted below, no signs shall be permitted within any platted right-of-way:
 - (a) Special promotional banners that cross a public or private road, with a message area of 200 square feet or less, for public or institutional events.
 - (b) One directional sign to identify the entrance to a particular subdivision or development, not to exceed 12 square feet, and not to exceed eight feet in height nor six feet in width. For subdivisions which are approved by the Planning Board and which have nonresidential uses, this sign may identify businesses located within the subdivision.
 - (5) Temporary event signage. In addition to signage otherwise permitted herein, temporary events may display up to 20 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:
 - (a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;
 - (b) Maximum sign height shall be eight feet; and
 - (c) Maximum sign width shall be 10 feet.
 - (6) Special event signage. In addition to signage otherwise permitted herein, special events may display up to 40 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:
 - (a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;
 - (b) Maximum sign height shall be eight feet; and
 - (c) Maximum sign width shall be 10 feet.
 - (7) Signs exempt from property line setbacks and no permit required:

- (a) Signs with a message area of one square foot or less which bear only property numbers, post office numbers, names of occupants of the premises, other noncommercial identification, or with one of the following messages: "open"; "closed"; "vacancy"; or "no vacancy."
 - (b) Directional signs with a message area of four square feet or less, to indicate entrance and/or exit driveways.
 - (c) Legal notices, such as "no trespassing" signs, with a message area of 12 square feet or less.
 - (d) Business name and directional signs with a message area of three square feet or less which are located over doorways. Such signs may project from the wall surface.
 - (e) Flags.
 - (f) Window signs which are affixed to the interior of the window, not to cover more than 50% of any window.
 - (g) One sign identifying lawn, garage or barn sales, with a message area of 12 square feet or less, to be erected not more than two days prior to the event and removed within one day of the end of the event.
 - (h) Sign for a government election, with time limits as specified in state law, or if no state law applies, then erected no more than 12 weeks prior to the election and removed within two weeks following the election.
 - (i) Nonilluminated sign advertising the sale or lease of the premises upon which the sign is located, with a message area of 16 square feet or less in all districts.
 - (j) Special promotional signs for public or institutional events, with a message area of 40 square feet or less.
 - (k) Directional signs to help locate facilities for disabled persons, with a message area not to exceed four square feet, as required for compliance with the Americans with Disabilities Act of 1990.
 - (l) A home occupation may display a nonilluminated outdoor sign not exceeding three square feet in size.
 - (m) One real estate sign to identify lots for sale at each entrance to the subdivision in which the subject lots are located, not to exceed 12 square feet, and not to exceed eight feet in height nor six feet in width.
- (8) Signs subject to property line setbacks and no permit required:
- (a) For a religious institution, nonprofit organization, public service agency, public school or municipal building, one announcement board, with a message area of 12 square feet or less.

- (b) For fraternal or social clubs, local service and philanthropic organizations to identify meeting locations, one sign with a message area of three square feet or less.
 - (c) Signs in parking lots to identify aisles, handicapped spaces, and reserved spaces.
 - (d) For construction in progress, one sign identifying the owner, architect, contractor and/or developer, to be removed within one month of completion of the project, with a message area of 12 square feet or less.
 - (e) Signs which convey only a noncommercial message, including but not limited to ideological, political, social, cultural, or religious messages, with a message area of 12 square feet or less.
- (9) Permit required for all other signs.
- (a) Sign application process. Any action requiring a sign permit shall be permitted only upon the application to and approval of the Zoning Officer. Applications shall use the following process:
 - [1] An application form for each sign shall be completed and signed by the owner of the property.
 - [2] A complete application shall also include the following:
 - [a] Fee as set from time to time by the Board of Selectmen;
 - [b] Written description of the proposed type, size, height, setback, sign and supporting structure materials, and illumination of the sign;
 - [c] Statement specifically addressing compliance with off-site commercial sign restrictions; and
 - [d] Analysis regarding impact of safety, specifically addressing lighting/glare and line-of-sight blockage for vehicles and pedestrians.
 - [3] Upon receipt of a complete application, the Zoning Officer shall have up to 14 days to either approve or deny the application.
 - [4] If the application is denied, the Zoning Officer shall issue a written decision stating the reason(s) for denial.
 - [5] If the application is approved, the Zoning Officer shall issue an approval for the erection of a sign. The sign permit is valid for one year from date of approval. If the sign is not erected within one year, the permit shall expire.
- (10) Design standards. The following design standards shall be required to ensure compliance with the intent of these regulations:

- (a) Illumination. Signs shall not be illuminated from within; signs may be illuminated only by external light. Lighting shall be affixed to and, for dimensional purposes, considered part of the sign structure. Lighting shall be located, directed and/or shielded such that it only sheds light downward and is limited to the message display area. Lighting sources shall be metal halide or halogen and located, directed and/or shielded such that no direct light emissions are visible at any point along the property boundary, nor shall they in any way be distracting to vehicular traffic.
 - (b) Neon. Neon lighting shall be prohibited.
 - (c) Motion. Moving signs, or signs which give the appearance of motion, shall be prohibited.
 - (d) Flashing/Blinking. Flashing, blinking, alternating-type or digital-type lighting such as a digital message board shall be prohibited.
 - (e) Structural supports and base. The support and base structure of a sign shall not exceed 50% of the maximum permitted message area of the sign. Such supports and base shall be measured on the single side or face having the greatest surface area. If the sign structural supports and base are made of wood, brick and/or stone, with only incidental use of other materials, the structure/base size limit shall be increased to 100% of the maximum permitted message area of the sign. The top of the supporting structure of a freestanding sign shall extend no farther above the top of the message area than 1/3 of the maximum permitted height of the message area.
 - (f) No sign shall project over a street or sidewalk.
 - (g) No sign shall be placed in such a position as to endanger vehicular or pedestrian traffic by obstructing a clear view, by causing confusion with government signs and signals, or by any other means.
- (11) Movable signs. Movable signs shall be prohibited. No vehicle, including parts thereof, trailers, and other accessories, shall be used as a means of circumventing the purpose and intent of this chapter. A vehicle displaying a commercial message which is licensed, registered and inspected shall be exempt from these sign regulations if it is regularly and customarily used to transport persons or property for the business.
- (12) Flags, banners, pennants, etc.
- (a) In addition to the signs otherwise permitted by this chapter, there may be displayed, on any lot, up to three flags displaying any otherwise legal symbol, message or information, commercial or noncommercial; except that off-site commercial flags shall be restricted as set forth in this chapter. No such flag shall exceed 24 square feet measured by one face of the flag only. Any such flag shall be mounted directly to one flagpole. A "flagpole" is a pole intended and placed solely for the support and display of a flag or flags, and does not include utility poles, light poles, trees or other sign structures.

All flagpoles shall be erected vertically, or within 45° of the vertical. No portion of any flagpole shall be sited within 10 feet of a property line. No flagpole shall extend more than 35 feet in height above grade or, if mounted on a building, 55 feet above the average finished grade of the building.

- (b) Banners, feather flags, pennants, searchlights, twirling signs, balloons or other gas-filled figures, and other such materials shall be prohibited, except as specified herein.
 - (c) This subsection shall not be construed to prevent any sign otherwise permitted by this chapter, and which conforms to all sign requirements of this chapter, from taking the form of a flag or other fabric. Banners may be used to cover part or all of an existing freestanding, projecting or wall sign to advertise temporary events. The net effect of this activity shall not increase the message area of any permitted sign or signs.
- (13) Maintenance. All surfaces and supporting structures of signs, whether erected prior to the effective date of this chapter or not, shall be maintained in a safe and sightly condition to the satisfaction of the Board of Selectmen or its authorized agent. A permit is required for any maintenance except the following: repainting; other surface renewal; or change of message on the same surface.
- (14) Sign incentives. The purpose of these sign incentives is to reduce visual clutter and distraction from the natural environment caused by signs. This system offers design and size bonuses as a means of encouraging certain site and sign designs.
- (a) Any freestanding, projecting or wall sign which conforms to all provisions of this chapter shall be permitted to utilize up to 20% of the maximum permitted message area for changeable copy.
 - (b) A freestanding sign which conforms to all provisions of this chapter shall be permitted to increase its message area by up to 20 square feet above that otherwise permitted under this chapter if the lot has at least 300 feet but less than 500 feet of frontage on a Class V or better road; or by up to 40 square feet above that otherwise permitted under this chapter if the lot has 500 feet or more of frontage on a Class V or better road. In no case, however, shall such increases cause any sign message area to exceed 80 square feet. The applicant shall submit a satisfactory written declaration, to be recorded at the Carroll County Registry of Deeds, in which the owner, its heirs, successors and assigns agree that, if the frontage of the property is subsequently reduced below that amount required for the bonus granted, the sign shall be removed or replaced with a sign which fully conforms with the provisions of this chapter; and that no subdivision of a lot shall be permitted unless a freestanding sign erected under this provision continues to conform to this provision; and such agreement must be legally enforceable by the Town of Conway.
 - (c) On a site where the freestanding sign conforms to all provisions of this chapter, the maximum wall sign message area permitted per Subsection F(2) may be increased by 50%.

- G. Restrictions regarding home occupations. A home occupation is considered accessory to a residential use and shall not occupy an area greater than 50% of the total floor area of the residential unit or 1,500 square feet, whichever is less. Home occupations are subject to the following provisions and restrictions:
- (1) The home occupation shall be carried on by persons who live in the principal residential unit full time. Two employees living off-premises are permitted.
 - (2) The home occupation shall be carried on within the principal residential unit or an approved accessory structure.
 - (3) Exterior storage of commercial vehicles, equipment or materials or variation from the residential character of the principal residential unit shall not be permitted.
 - (4) The home occupation shall create no unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or other nuisance or threat to the health of the abutters.
 - (5) Adequate off-street parking shall be provided.
 - (6) A home occupation shall not generate excessive traffic or traffic in greater volumes than would normally be expected in a residential neighborhood.
 - (7) A home occupation may display a sign conforming to Subsection F(7)(1) above.
 - (8) A change-of-use permit to operate a home occupation is required before startup of operation.
 - (9) Retail or wholesale sales are only permitted for those items raised or made on the premises.
 - (10) A home occupation shall not be offensive to the character of the neighborhood or decrease abutting property values.
- H. Farm and nursery stands. Farm and nursery stands for selling indigenous produce or plants are considered temporary structures and are permitted, provided that:
- (1) Farm stands shall not exceed 1,200 square feet of gross floor area unless granted site plan review approval by the Planning Board.⁷¹
 - (2) Three off-street parking spaces shall be required to be provided for structures up to 100 square feet in size. Additional parking shall be required at the rate of one space per 200 square feet over 100 square feet.
 - (3) Wall signs shall not exceed 10 square feet in size. One portable A-frame sign per lot, not to exceed six square feet, shall be allowed to be displayed during business hours only.
 - (4) All structures, parking areas and signs shall meet the setback requirements established herein.

71. Editor's Note: See Ch. 110, Site Plan Review.

- I. Yard sales. Yard sales shall be permitted, provided that no one household holds sales on more than six days per calendar year.
- J. Mobile homes, travel trailers and recreational vehicles.
- (1) A mobile home, travel trailer or recreational vehicle may be permitted on the site of a construction project for one year, provided that it is a necessary convenience for the construction project and that no public safety or health hazards shall be created.
 - (2) One travel trailer or recreational vehicle may be stored on a lot, provided that it is not utilized for dwelling purposes.
 - (3) All mobile homes permitted under this subsection must be connected to a sewerage system and water source, both meeting minimum local and State of New Hampshire standards, as applicable and then promulgated; such systems shall be approved by the Selectmen or their designated agent and be maintained so as not to cause a health or sanitation hazard.
- K. Commercial amusements. Because the Town wishes to maintain a character which protects the long-term, high-quality environment, which will ultimately protect tourism in the valley, commercial amusements are hereby regulated to prevent adverse impacts on the Town's character and environment. All commercial amusements on a lot shall be located within an enclosed building, and the following shall apply:
- (1) Commercial amusements may occupy 10% or less of the floor space of a business in any business district, by permit of the Zoning Officer and without site plan review by the Planning Board.
 - (2) Commercial amusements may occupy more than 10% of the floor space of a business in any business district, subject to the condition that no noise, light or other adverse impact outside the building shall be caused by the amusements or their use. Site plan review approval by the Planning Board shall be required.⁷²
- L. Outdoor commercial activities such as drive-up windows, remote outdoor speaker systems, interactive signs, menu boards or other similar devices with speakers, any of which operate in close proximity to residential property, constitute a nuisance due to unconfined noise and light, as well as operating hours that are not compatible with the residential environment.
- (1) Commercial activities that operate drive-up windows, remote outdoor speakers, interactive signs, menu boards or other similar devices with speakers that permit customers or the general public to communicate with personnel within the commercial building or other location on the commercial property shall be at least 300 feet from the closer of the residential zone boundary or from the nearest residential property line, and if the time of operation begins before 9:00 a.m. or ends after 5:00 p.m. the separation distance shall be at least 600 feet. Substantial effective buffering against sound and light shall be provided in either case. These

72. Editor's Note: See Ch. 110, Site Plan Review.

setbacks may be waived by the Planning Board during the site plan review process if the property abuts the Floodplain Conservation District and it can be shown that there will be no sound or light impact on residential use.

M. Special exceptions. The following land uses shall be allowed if granted a special exception by the Zoning Board of Adjustment:

- (1) Helicopters. A special exception may be granted for helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term nature. No approval for a special exception shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to Town residents and their property.
- (2) Wireless communication facilities. Wireless communication facilities may be allowed by special exception in the Industrial-I (I1) District, on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:
 - (a) Since the visual impact of wireless communication facilities can transcend Town lines, communities that may be visually affected shall be formally notified of applications for such proposed facilities as projects having regional impact.
 - (b) The applicant must demonstrate that every reasonable effort has been made to cause the facility to have the least possible visual impact on the Town at large, including demonstration of realistic analysis of multiple sites, the need for the proposed height, and any impact on significant roadside viewpoints.
 - (c) Any wireless communication facility shall be designed to accommodate multiple providers of communication services and will only be approved under the condition that the primary developer of the facility will make the facility available upon reasonable terms by lease or other legal instruments to other wireless communication services.
 - (d) The Board of Adjustment may request detailed plans from the applicant and may, at the expense of the applicant, engage the services of professional consultants to review and comment on the proposal, and testimony of the applicants or their agents relating thereto.
 - (e) Major site plan approval must be obtained from the Planning Board.⁷³

73. Editor's Note: See Ch. 110, Site Plan Review.

§ 190-23. Industrial-2 (I2) District. [Amended 4-14-2015 by Art. 2, Art. 3, Art. 4⁷⁴]

The I2 District is primarily designed to accommodate a compatible mixture of uses that complement light industrial and limited commercial uses. Hotels, motels and large retail uses are specifically prohibited in this district. Except for lots identified as 1997 Tax Map 5-10, Lots 39-1 through 12-39-32 and caretaker's residences, residential uses are prohibited in this district. This district is not currently serviced by municipal water and sewer and cannot accommodate higher development densities. Uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries.

- (1) The I2 District shall have the following bounds (Map and Parcel numbers refer to 2003 Town of Conway Tax Maps): commencing at a point on the thread of Mason Brook 4,000 feet northerly of the center line of East Conway Road; thence running southerly along the thread of Mason Brook to the one-hundred-year floodplain; thence running westerly along the one-hundred-year floodplain to the center line of Map 219, Parcel 211 (formerly the Maine Central Railroad); thence northwesterly along the center line of Map 219, Parcel 211 (formerly the Maine Central Railroad) to a point adjacent to the southeast corner of Map 252, Parcel 42; thence northerly along the eastern boundary of Map 252, Parcel 42 to the northwest corner of Map 252, Parcel 47; thence northerly along the western boundary of Map 252, Parcel 48 to a point 4,000 feet from the center line of East Conway Road; thence running generally easterly parallel with and 4,000 feet from East Conway Road to the point of commencement.
- (2) District map. The I2 District Map is included as an attachment to this chapter.

B. Lot size and density.

- (1) Minimum lot size in this district is two acres.
- (2) Lots serviced by a municipal water system and municipal sewerage system shall have at least 1/2 acre for the first unit that may be located thereon and at least 10,000 square feet for each additional unit on the same lot.
- (3) Lots serviced by a municipal water system shall have at least 1/2 acre for each unit that may be located thereon.

C. Frontage. All lots must front on a state or Town highway with a Class I, II, III, IV or V classification, a private road constructed to Town standards as required by the Planning Board or a Class VI road proposed to be improved as stipulated by the Planning Board. To qualify as frontage, the lot must have access rights to the subject highway or road. The minimum distance for frontage on a road shall be:

74. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (1) One hundred fifty feet.
 - (2) One hundred feet for lots which front entirely on cul-de-sacs which meet the design requirements set forth in Chapter 130, Subdivision of Land, Article X, Detail #4, and approved by the Planning Board.
- D. Setbacks. Within the I2 District, the minimum front setback shall be 50 feet and the minimum side or rear setback shall be 30 feet. Where the Industrial-2 District borders the RA District, or an industrial lot borders an existing residential use or borders an approved residential subdivision, a fifty-foot setback shall be required for that portion of the industrial lot.
- E. Structure and building height. Structure height is restricted to achieve several purposes. The Town is economically dependent upon tourism and attracts visitors with its rural character and mountainous setting. Maintaining the traditional scale and style of structures aids in preserving the character of the Town. Peaked roofs are encouraged because it is the traditional roof style in the Town. (Care has been taken to prepare language which does not unduly encourage the use of flat-roof buildings.) The height restriction keeps structures and buildings below treetop level, which is typically from 60 feet to 100 feet for mature maple, beech, birch and pine trees. Structure height below treetop level helps maintain the rural atmosphere and preserve the viewsheds throughout the Town. In addition, the height limit minimizes difficulty in providing fire protection. The following shall apply throughout the Town:
- (1) Structure height shall not exceed 55 feet for any structure, except wind energy systems permitted in accordance with Chapter 179 of the Conway Code.
 - (2) Building height shall not exceed 45 feet.
 - (3) Church steeples may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:
 - (a) The space enclosed in the steeple is not usable floor space other than for the maintenance and structural purposes of the steeple.
 - (b) The height of the steeple is appropriate to the design and size of the church.
- F. Signs.
- (1) Freestanding sign. There shall be no more than one freestanding sign per lot, except that where a lot fronts on two or more public rights-of-way and has two entrances at least 500 feet apart, two freestanding signs shall be permitted.
 - (a) The size of the message area shall not exceed 40 square feet.
 - (b) The height of the message area shall not exceed 15 feet above the undisturbed ground.
 - (c) The width of the message area shall not exceed 12 feet.
 - (d) Setbacks.

- [1] The minimum setback shall be 25 feet from a platted right-of-way, and five feet from all other property boundaries.
 - [2] Freestanding sign setbacks may be reduced to 10 feet from a platted right-of-way, if the size of the message area is reduced to 30 square feet maximum. All of the dimensional requirements, except the size of the message area and the minimum front setback, shall be required of these signs.
- (e) Where an existing nonconforming sign serves more than one commercial establishment, each having at least 60,000 square feet, the size of the message area may be expanded based upon 40 square feet per commercial establishment; provided, however, that the total message area shall not exceed 80 square feet in any case.
 - (f) Projecting signs are not permitted in the I2 District.
 - (g) The Zoning Board of Adjustment may grant the following special exceptions:
 - [1] For two or more businesses located in a single building or within attached buildings and where the businesses share a common pedestrian entrance, an additional freestanding sign may be permitted for use as a directory sign, provided that the following conditions are met:
 - [a] The sign shall be used only to identify and locate businesses within;
 - [b] The message area shall not exceed 12 square feet;
 - [c] The height of the message area shall not exceed 20 feet above the undisturbed ground;
 - [d] The sign shall meet all setbacks; and
 - [e] The additional wall sign permitted by special exception under Subsection F(2)(d)[2] is not used.
 - [2] Where existing buildings are set back from the right-of-way less than the setback required for freestanding signs in Subsection F(1), the right-of-way setback of the freestanding sign may be reduced from 25 feet to any lesser amount down to five feet, provided that the following conditions are met:
 - [a] The message area shall be reduced to not more than 20 square feet;
 - [b] The sign shall not obstruct vehicular or pedestrian traffic;
 - [c] The sign shall not obstruct the line-of-sight for traffic entering or exiting the site; and
 - [d] The sign shall not unduly obstruct the visibility of other signs or property in the area.

- (h) One appendage may be attached to a freestanding or projecting sign, and the message area of this appendage shall be considered part of the total message area of the sign. No appendage shall be permitted on supports nor directional signs.
- (2) Wall sign. For lots without multiple commercial tenants, each lot shall be permitted one wall sign. For lots with multiple commercial tenants, each commercial tenant shall be permitted one wall sign. All wall signs shall be located on a wall which is common to both the interior and exterior of the business identified by the sign. The height of the message area shall not exceed the greater of 20 feet from the undisturbed ground or a height equal to 75% of the total height of the building, nor shall it exceed the height of the wall to which it is attached. The message area of the wall sign shall be based on the following formulas, subject to increase by bonus granted per Subsection F(12)(c):
- (a) For floor areas up to and including 50,000 square feet, the maximum message area shall be calculated as follows: $20 + (\text{total square feet floor area} \times 0.0016)$.
- (b) If the floor area of the business is greater than 50,000 square feet, the maximum wall sign message area shall be 100 square feet. A business with a floor area greater than 50,000 square feet shall be permitted one additional wall sign if it has two or more exterior public or customer entrances, excluding emergency entrances, that are at least 20 feet apart. The message area of the second wall sign shall not exceed 20 square feet.
- (c) The Zoning Board of Adjustment may grant the following special exceptions:
- [1] For a major business in a shopping center or mall that does not have wall frontage facing its primary parking lot, one additional wall sign may be permitted, provided that the following conditions are met:
- [a] The size of the message area shall not exceed 40 square feet;
 - [b] The sign shall be located on a wall facing the primary parking lot;
 - [c] Total wall sign area on the wall shall not exceed 10%; and
 - [d] All relevant height restrictions specified in Subsection F(2) apply.
- [2] For two or more businesses located in a single building or within attached buildings and where the businesses share a common pedestrian entrance, an additional wall sign may be permitted, subject to the following:
- [a] The sign shall be used only to identify and locate the businesses within;
 - [b] The message area shall not exceed 12 square feet;
 - [c] The sign shall be located immediately adjacent to the common entrance; and

- [d] The additional freestanding sign permitted by special exception under Subsection F(1)(g)[1] is not used.
- (3) Sign content. The Town has no intention of restricting individual free speech, but the Town does recognize its right to place reasonable restrictions upon commercial speech. Further, the Town wishes to prevent excessive or unnecessary signage along road corridors. In keeping with this reasoning, off-site commercial signs shall be prohibited.
- (4) Signs in platted ROW. Except as otherwise permitted below, no signs shall be permitted within any platted right-of-way:
- (a) Special promotional banners that cross a public or private road, with a message area of 200 square feet or less, for public or institutional events.
 - (b) One directional sign to identify the entrance to a particular subdivision or development, not to exceed 12 square feet, and not to exceed eight feet in height nor six feet in width. For subdivisions which are approved by the Planning Board and which have nonresidential uses, this sign may identify businesses located within the subdivision.
- (5) Temporary event signage. In addition to signage otherwise permitted herein, temporary events may display up to 20 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:
- (a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;
 - (b) Maximum sign height shall be eight feet; and
 - (c) Maximum sign width shall be 10 feet.
- (6) Special event signage. In addition to signage otherwise permitted herein, special events may display up to 40 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:
- (a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;
 - (b) Maximum sign height shall be eight feet; and
 - (c) Maximum sign width shall be 10 feet.
- (7) Signs exempt from property line setbacks and no permit required:
- (a) Signs with a message area of one square foot or less which bear only property numbers, post office numbers, names of occupants of the premises,

other noncommercial identification, or with one of the following messages: "open"; "closed"; "vacancy"; or "no vacancy."

- (b) Directional signs with a message area of four square feet or less, to indicate entrance and/or exit driveways.
 - (c) Legal notices, such as "no trespassing" signs, with a message area of 12 square feet or less.
 - (d) Business name and directional signs with a message area of three square feet or less which are located over doorways. Such signs may project from the wall surface.
 - (e) Flags.
 - (f) Window signs which are affixed to the interior of the window, not to cover more than 50% of any window.
 - (g) One sign identifying lawn, garage or barn sales, with a message area of 12 square feet or less, to be erected not more than two days prior to the event and removed within one day of the end of the event.
 - (h) Sign for a government election, with time limits as specified in state law, or if no state law applies, then erected no more than 12 weeks prior to the election and removed within two weeks following the election.
 - (i) Nonilluminated sign advertising the sale or lease of the premises upon which the sign is located, with a message area of 16 square feet or less in all districts.
 - (j) Special promotional signs for public or institutional events, with a message area of 40 square feet or less.
 - (k) Directional signs to help locate facilities for disabled persons, with a message area not to exceed four square feet, as required for compliance with the Americans with Disabilities Act of 1990.
 - (l) A home occupation may display a nonilluminated outdoor sign not exceeding three square feet in size.
 - (m) One real estate sign to identify lots for sale at each entrance to the subdivision in which the subject lots are located, not to exceed 12 square feet, and not to exceed eight feet in height nor six feet in width.
- (8) Signs subject to property line setbacks and no permit required:
- (a) For a religious institution, nonprofit organization, public service agency, public school or municipal building, one announcement board, with a message area of 12 square feet or less.

- (b) For fraternal or social clubs, local service and philanthropic organizations to identify meeting locations, one sign with a message area of three square feet or less.
 - (c) Signs in parking lots to identify aisles, handicapped spaces, and reserved spaces.
 - (d) For construction in progress, one sign identifying the owner, architect, contractor and/or developer, to be removed within one month of completion of the project, with a message area of 12 square feet or less.
 - (e) Signs which convey only a noncommercial message, including but not limited to ideological, political, social, cultural, or religious messages, with a message area of 12 square feet or less.
- (9) Permit required for all other signs.
- (a) Sign application process. Any action requiring a sign permit shall be permitted only upon the application to and approval of the Zoning Officer. Applications shall use the following process:
 - [1] An application form for each sign shall be completed and signed by the owner of the property.
 - [2] A complete application shall also include the following:
 - [a] Fee as set from time to time by the Board of Selectmen;
 - [b] Written description of the proposed type, size, height, setback, sign and supporting structure materials, and illumination of the sign;
 - [c] Statement specifically addressing compliance with off-site commercial sign restrictions; and
 - [d] Analysis regarding impact of safety, specifically addressing lighting/glare and line-of-sight blockage for vehicles and pedestrians.
 - [3] Upon receipt of a complete application, the Zoning Officer shall have up to 14 days to either approve or deny the application.
 - [4] If the application is denied, the Zoning Officer shall issue a written decision stating the reason(s) for denial.
 - [5] If the application is approved, the Zoning Officer shall issue an approval for the erection of a sign. The sign permit is valid for one year from date of approval. If the sign is not erected within one year, the permit shall expire.
- (10) Design standards. The following design standards shall be required to ensure compliance with the intent of these regulations:

- (a) Illumination. Signs shall not be illuminated from within; signs may be illuminated only by external light. Lighting shall be affixed to and, for dimensional purposes, considered part of the sign structure. Lighting shall be located, directed and/or shielded such that it only sheds light downward and is limited to the message display area. Lighting sources shall be metal halide or halogen and located, directed and/or shielded such that no direct light emissions are visible at any point along the property boundary, nor shall they in any way be distracting to vehicular traffic.
 - (b) Neon. Neon lighting shall be prohibited.
 - (c) Motion. Moving signs, or signs which give the appearance of motion, shall be prohibited.
 - (d) Flashing/Blinking. Flashing, blinking, alternating-type or digital-type lighting such as a digital message board shall be prohibited.
 - (e) Structural supports and base. The support and base structure of a sign shall not exceed 50% of the maximum permitted message area of the sign. Such supports and base shall be measured on the single side or face having the greatest surface area. If the sign structural supports and base are made of wood, brick and/or stone, with only incidental use of other materials, the structure/base size limit shall be increased to 100% of the maximum permitted message area of the sign. The top of the supporting structure of a freestanding sign shall extend no farther above the top of the message area than 1/3 of the maximum permitted height of the message area.
 - (f) No sign shall project over a street or sidewalk.
 - (g) No sign shall be placed in such a position as to endanger vehicular or pedestrian traffic by obstructing a clear view, by causing confusion with government signs and signals, or by any other means.
- (11) Movable signs. Movable signs shall be prohibited. No vehicle, including parts thereof, trailers, and other accessories, shall be used as a means of circumventing the purpose and intent of this chapter. A vehicle displaying a commercial message which is licensed, registered and inspected shall be exempt from these sign regulations if it is regularly and customarily used to transport persons or property for the business.
- (12) Flags, banners, pennants, etc.
- (a) In addition to the signs otherwise permitted by this chapter, there may be displayed, on any lot, up to three flags displaying any otherwise legal symbol, message or information, commercial or noncommercial; except that off-site commercial flags shall be restricted as set forth in this chapter. No such flag shall exceed 24 square feet measured by one face of the flag only. Any such flag shall be mounted directly to one flagpole. A "flagpole" is a pole intended and placed solely for the support and display of a flag or flags, and does not include utility poles, light poles, trees or other sign structures.

All flagpoles shall be erected vertically, or within 45° of the vertical. No portion of any flagpole shall be sited within 10 feet of a property line. No flagpole shall extend more than 35 feet in height above grade or, if mounted on a building, 55 feet above the average finished grade of the building.

- (b) Banners, feather flags, pennants, searchlights, twirling signs, balloons or other gas-filled figures, and other such materials shall be prohibited, except as specified herein.
 - (c) This subsection shall not be construed to prevent any sign otherwise permitted by this chapter, and which conforms to all sign requirements of this chapter, from taking the form of a flag or other fabric. Banners may be used to cover part or all of an existing freestanding, projecting or wall sign to advertise temporary events. The net effect of this activity shall not increase the message area of any permitted sign or signs.
- (13) Maintenance. All surfaces and supporting structures of signs, whether erected prior to the effective date of this chapter or not, shall be maintained in a safe and sightly condition to the satisfaction of the Board of Selectmen or its authorized agent. A permit is required for any maintenance except the following: repainting; other surface renewal; or change of message on the same surface.
- (14) Sign incentives. The purpose of these sign incentives is to reduce visual clutter and distraction from the natural environment caused by signs. This system offers design and size bonuses as a means of encouraging certain site and sign designs.
- (a) Any freestanding, projecting or wall sign which conforms to all provisions of this chapter shall be permitted to utilize up to 20% of the maximum permitted message area for changeable copy.
 - (b) A freestanding sign which conforms to all provisions of this chapter shall be permitted to increase its message area by up to 20 square feet above that otherwise permitted under this chapter if the lot has at least 300 feet but less than 500 feet of frontage on a Class V or better road; or by up to 40 square feet above that otherwise permitted under this chapter if the lot has 500 feet or more of frontage on a Class V or better road. In no case, however, shall such increases cause any sign message area to exceed 80 square feet. The applicant shall submit a satisfactory written declaration, to be recorded at the Carroll County Registry of Deeds, in which the owner, its heirs, successors and assigns agree that, if the frontage of the property is subsequently reduced below that amount required for the bonus granted, the sign shall be removed or replaced with a sign which fully conforms with the provisions of this chapter; and that no subdivision of a lot shall be permitted unless a freestanding sign erected under this provision continues to conform to this provision; and such agreement must be legally enforceable by the Town of Conway.
 - (c) On a site where the freestanding sign conforms to all provisions of this chapter, the maximum wall sign message area permitted per Subsection F(2) may be increased by 50%.

- G. Restrictions regarding home occupations. A home occupation is considered accessory to a residential use and shall not occupy an area greater than 50% of the total floor area of the residential unit or 1,500 square feet, whichever is less. Home occupations are subject to the following provisions and restrictions:
- (1) The home occupation shall be carried on by persons who live in the principal residential unit full time. Two employees living off-premises are permitted.
 - (2) The home occupation shall be carried on within the principal residential unit or an approved accessory structure.
 - (3) Exterior storage of commercial vehicles, equipment or materials or variation from the residential character of the principal residential unit shall not be permitted.
 - (4) The home occupation shall create no unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or other nuisance or threat to the health of the abutters.
 - (5) Adequate off-street parking shall be provided.
 - (6) A home occupation shall not generate excessive traffic or traffic in greater volumes than would normally be expected in a residential neighborhood.
 - (7) A home occupation may display a sign conforming to Subsection F(7)(l) above.
 - (8) A change-of-use permit to operate a home occupation is required before startup of operation.
 - (9) Retail or wholesale sales are only permitted for those items raised or made on the premises.
 - (10) A home occupation shall not be offensive to the character of the neighborhood or decrease abutting property values.
- H. Farm and nursery stands. Farm and nursery stands for selling indigenous produce or plants are considered temporary structures and are permitted, provided that:
- (1) Farm stands shall not exceed 1,200 square feet of gross floor area unless granted site plan review approval by the Planning Board.⁷⁵
 - (2) Three off-street parking spaces shall be required to be provided for structures up to 100 square feet in size. Additional parking shall be required at the rate of one space per 200 square feet over 100 square feet.
 - (3) Wall signs shall not exceed 10 square feet in size. One portable A-frame sign per lot, not to exceed six square feet, shall be allowed to be displayed during business hours only.
 - (4) All structures, parking areas and signs shall meet the setback requirements established herein.

75. Editor's Note: See Ch. 110, Site Plan Review.

- I. Yard sales. Yard sales shall be permitted, provided that no one household holds sales on more than six days per calendar year.
- J. Mobile homes, travel trailers and recreational vehicles.
- (1) A mobile home, travel trailer or recreational vehicle may be permitted on the site of a construction project for one year, provided that it is a necessary convenience for the construction project and that no public safety or health hazards shall be created.
 - (2) One travel trailer or recreational vehicle may be stored on a lot, provided that it is not utilized for dwelling purposes.
 - (3) All mobile homes permitted under this subsection must be connected to a sewerage system and water source, both meeting minimum local and State of New Hampshire standards, as applicable and then promulgated; such systems shall be approved by the Selectmen or their designated agent and be maintained so as not to cause a health or sanitation hazard.
- K. Commercial amusements. Because the Town wishes to maintain a character which protects the long-term, high-quality environment, which will ultimately protect tourism in the valley, commercial amusements are hereby regulated to prevent adverse impacts on the Town's character and environment. All commercial amusements on a lot shall be located within an enclosed building, and the following shall apply:
- (1) Commercial amusements may occupy 10% or less of the floor space of a business in any business district, by permit of the Zoning Officer and without site plan review by the Planning Board.
 - (2) Commercial amusements may occupy more than 10% of the floor space of a business in any business district, subject to the condition that no noise, light or other adverse impact outside the building shall be caused by the amusements or their use. Site plan review approval by the Planning Board shall be required.⁷⁶
- L. Outdoor commercial activities such as drive-up windows, remote outdoor speaker systems, interactive signs, menu boards or other similar devices with speakers, any of which operate in close proximity to residential property, constitute a nuisance due to unconfined noise and light, as well as operating hours that are not compatible with the residential environment.
- (1) Commercial activities that operate drive-up windows, remote outdoor speakers, interactive signs, menu boards or other similar devices with speakers that permit customers or the general public to communicate with personnel within the commercial building or other location on the commercial property shall be at least 300 feet from the closer of the residential zone boundary or from the nearest residential property line, and if the time of operation begins before 9:00 a.m. or ends after 5:00 p.m. the separation distance shall be at least 600 feet. Substantial effective buffering against sound and light shall be provided in either case. These

76. Editor's Note: See Ch. 110, Site Plan Review.

setbacks may be waived by the Planning Board during the site plan review process if the property abuts the Floodplain Conservation District and it can be shown that there will be no sound or light impact on residential use.

M. Special exceptions. The following land uses shall be allowed if granted a special exception by the Zoning Board of Adjustment:

- (1) Helicopters. A special exception may be granted for helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term nature. No approval for a special exception shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to Town residents and their property.
- (2) Wireless communication facilities. Wireless communication facilities may be allowed by special exception in the Industrial-2 (I2) District, on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:
 - (a) Since the visual impact of wireless communication facilities can transcend Town lines, communities that may be visually affected shall be formally notified of applications for such proposed facilities as projects having regional impact.
 - (b) The applicant must demonstrate that every reasonable effort has been made to cause the facility to have the least possible visual impact on the Town at large, including demonstration of realistic analysis of multiple sites, the need for the proposed height, and any impact on significant roadside viewpoints.
 - (c) Any wireless communication facility shall be designed to accommodate multiple providers of communication services and will only be approved under the condition that the primary developer of the facility will make the facility available upon reasonable terms by lease or other legal instruments to other wireless communication services.
 - (d) The Board of Adjustment may request detailed plans from the applicant and may, at the expense of the applicant, engage the services of professional consultants to review and comment on the proposal, and testimony of the applicants or their agents relating thereto.
 - (e) Major site plan approval must be obtained from the Planning Board.

§ 190-24. Recreational Resort (RR) District.

The RR District is primarily designed facilitate convention centers, sports and athletic facilities, visual and performing arts, residential and agricultural uses. Excavations are prohibited in this district. The district is generally without municipal sewer service and is not yet appropriate for development at higher densities. Land uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries and map.

- (1) District boundaries: Beginning at a point on the southerly side line of Hurricane Mountain Road, where the same is intersected by the easterly line of the Kearsarge Lighting Precinct; and from said beginning point running thence southerly and westerly along the Kearsarge Lighting Precinct boundary to a point where the same is intersected by the easterly line of Old Bartlett Road; thence southerly along the easterly line of Old Bartlett Road to a point on the southerly side of Skimobile Road; thence southerly on the same course as the easterly line of Old Bartlett Road to the easterly line of the power transmission-line right-of-way;

thence southerly along the easterly line of said power-transmission-line right-of-way to the southerly side of Thompson Road; thence S 72 50' E along the southerly side of Thompson Road to Thompson Road right-of-way monument No. 9; thence continuing S 72 50' E to a point 100 feet easterly of the height of land which extends between Middle Mountain, Black Cap and Hurricane Mountain; thence in a general northerly direction, parallel with said height of land and 100 feet easterly thereof to southerly side of Hurricane Mountain Road; thence westerly along the southerly side of Hurricane Mountain Road to the point and place of beginning.

- (2) District map. The RR District Map is included as an attachment to this chapter.

B. Lot size and density.

- (1) Lots serviced by a municipal water system and municipal sewerage system shall have at least 1/2 acre for the first unit that may be located thereon and at least 10,000 square feet for each additional unit on the same lot.
- (2) Lots serviced by a municipal water system shall have at least 1/2 acre for each unit that may be located thereon.
- (3) All other lots shall have at least one acre for each unit that may be located thereon.
- (4) Special exceptions. In order to help provide year-round rental housing, the Zoning Board of Adjustment may grant a special exception for one accessory apartment as an accessory use to an owner-occupied single-family dwelling, on any size lot, subject to the following conditions:
 - (a) The accessory apartment is designed to ensure architectural compatibility with the neighborhood.
 - (b) Sufficient parking is located on site.

C. Frontage. All lots must front on a state or Town highway with a Class I, II, III, IV or V classification, a private road constructed to Town standards as required by the Planning Board or a Class VI road proposed to be improved as stipulated by the Planning Board. To qualify as frontage, the lot must have access rights to the subject highway or road. The minimum distance for frontage on a road shall be:

- (1) One hundred fifty feet.
 - (2) One hundred feet for lots which front entirely on cul-de-sacs which meet the design requirements set forth in Chapter 130, Subdivision of Land, Article X, Detail #4, and approved by the Planning Board.
- D. Setbacks. The minimum front setback shall be 25 feet and the minimum side or back setback shall be 15 feet.
- E. Structure and building height. Structure height is restricted to achieve several purposes. The Town is economically dependent upon tourism and attracts visitors with its rural character and mountainous setting. Maintaining the traditional scale and style of structures aids in preserving the character of the Town. Peaked roofs are encouraged because it is the traditional roof style in the Town. (Care has been taken to prepare language which does not unduly encourage the use of flat-roof buildings.) The height restriction keeps structures and buildings below treetop level, which is typically from 60 feet to 100 feet for mature maple, beech, birch and pine trees. Structure height below treetop level helps maintain the rural atmosphere and preserve the viewsheds throughout the Town. In addition, the height limit minimizes difficulty in providing fire protection. The following shall apply throughout the Town:
- (1) Structure height shall not exceed 55 feet for any structure, except wind energy systems permitted in accordance with Chapter 179 of the Conway Code.⁷⁷
 - (2) Building height shall not exceed 45 feet.
 - (3) Wireless communication facilities may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that the height is necessary to fulfill its function.
 - (4) Church steeples may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:
 - (a) The space enclosed in the steeple is not usable floor space other than for the maintenance and structural purposes of the steeple.
 - (b) The height of the steeple is appropriate to the design and size of the church.
- F. Signs.
- (1) Sign setbacks. Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 15 feet from all other property boundaries.
 - (2) There shall be no more than one freestanding sign per lot.
 - (3) Maximum sign height shall be eight feet.

77. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (4) Maximum sign width shall be six feet.
- (5) Message area shall not exceed three square feet for professional or home occupations, nor shall message area exceed 12 square feet for identification of any nonresidential use.
- (6) Sign content. The Town has no intention of restricting individual free speech, but the Town does recognize its right to place reasonable restrictions upon commercial speech. Further, the Town wishes to prevent excessive or unnecessary signage along road corridors. In keeping with this reasoning, off-site commercial signs shall be prohibited.
- (7) Signs in platted ROW. Except as otherwise permitted below, no signs shall be permitted within any platted right-of-way:
 - (a) Special promotional banners that cross a public or private road, with a message area of 200 square feet or less, for public or institutional events.
 - (b) One directional sign to identify the entrance to a particular subdivision or development, not to exceed 12 square feet, and not to exceed eight feet in height nor six feet in width. For subdivisions which are approved by the Planning Board and which have nonresidential uses, this sign may identify businesses located within the subdivision.
- (8) Temporary event signage. In addition to signage otherwise permitted herein, temporary events may display up to 20 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:
 - (a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;
 - (b) Maximum sign height shall be eight feet; and
 - (c) Maximum sign width shall be 10 feet.
- (9) Special event signage. In addition to signage otherwise permitted herein, special events may display up to 40 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:
 - (a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;
 - (b) Maximum sign height shall be eight feet; and
 - (c) Maximum sign width shall be 10 feet.
- (10) Signs exempt from property line setbacks and no permit required:

- (a) Signs with a message area of one square foot or less which bear only property numbers, post office numbers, names of occupants of the premises, other noncommercial identification, or with one of the following messages: "open"; "closed"; "vacancy"; or "no vacancy."
 - (b) Directional signs with a message area of four square feet or less, to indicate entrance and/or exit driveways.
 - (c) Legal notices, such as "no trespassing" signs, with a message area of 12 square feet or less.
 - (d) Business name and directional signs with a message area of three square feet or less which are located over doorways. Such signs may project from the wall surface. **[Amended 4-14-2015 by Art. 3]**
 - (e) Flags.
 - (f) Window signs which are affixed to the interior of the window, not to cover more than 50% of any window.
 - (g) One sign identifying lawn, garage or barn sales, with a message area of 12 square feet or less, to be erected not more than two days prior to the event and removed within one day of the end of the event.
 - (h) Sign for a government election, with time limits as specified in state law, or if no state law applies, then erected no more than 12 weeks prior to the election and removed within two weeks following the election.
 - (i) Nonilluminated sign advertising the sale or lease of the premises upon which the sign is located, with a message area of 16 square feet or less in all districts.
 - (j) Special promotional signs for public or institutional events, with a message area of 40 square feet or less.
 - (k) Directional signs to help locate facilities for disabled persons, with a message area not to exceed four square feet, as required for compliance with the Americans with Disabilities Act of 1990.
 - (l) A home occupation may display a nonilluminated outdoor sign not exceeding three square feet in size.
 - (m) One real estate sign to identify lots for sale at each entrance to the subdivision in which the subject lots are located, not to exceed 12 square feet, and not to exceed eight feet in height nor six feet in width. **[Added 4-14-2015 by Art. 4]**
- (11) Signs subject to property line setbacks and no permit required:
- (a) For a religious institution, nonprofit organization, public service agency, public school or municipal building, one announcement board, with a message area of 12 square feet or less.

- (b) For fraternal or social clubs, local service and philanthropic organizations to identify meeting locations, one sign with a message area of three square feet or less.
 - (c) Signs in parking lots to identify aisles, handicapped spaces, and reserved spaces.
 - (d) For construction in progress, one sign identifying the owner, architect, contractor and/or developer, to be removed within one month of completion of the project, with a message area of 12 square feet or less.
 - (e) Signs which convey only a noncommercial message, including but not limited to ideological, political, social, cultural, or religious messages, with a message area of 12 square feet or less.
- (12) Permit required for all other signs.
- (a) Sign application process. Any action requiring a sign permit shall be permitted only upon the application to and approval of the Zoning Officer. Applications shall use the following process:
 - [1] An application form for each sign shall be completed and signed by the owner of the property.
 - [2] A complete application shall also include the following:
 - [a] Fee as set from time to time by the Board of Selectmen;⁷⁸
 - [b] Written description of the proposed type, size, height, setback, sign and supporting structure materials, and illumination of the sign;
 - [c] Statement specifically addressing compliance with off-site commercial sign restrictions; and
 - [d] Analysis regarding impact of safety, specifically addressing lighting/glare and line-of-sight blockage for vehicles and pedestrians.
 - [3] Upon receipt of a complete application, the Zoning Officer shall have up to 14 days to either approve or deny the application.
 - [4] If the application is denied, the Zoning Officer shall issue a written decision stating the reason(s) for denial.
 - [5] If the application is approved, the Zoning Officer shall issue an approval for the erection of a sign. The sign permit is valid for one year from date of approval. If the sign is not erected within one year, the permit shall expire.

78. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (13) Design standards. The following design standards shall be required to ensure compliance with the intent of these regulations:
- (a) Illumination. Signs shall not be illuminated from within; signs may be illuminated only by external light. Lighting shall be affixed to and, for dimensional purposes, considered part of the sign structure. Lighting shall be located, directed and/or shielded such that it only sheds light downward and is limited to the message display area. Lighting sources shall be metal halide or halogen and located, directed and/or shielded such that no direct light emissions are visible at any point along the property boundary, nor shall they in any way be distracting to vehicular traffic.
 - (b) Neon. Neon lighting shall be prohibited.
 - (c) Motion. Moving signs, or signs which give the appearance of motion, shall be prohibited.
 - (d) Flashing/Blinking. Flashing, blinking, alternating-type or digital-type lighting such as a digital message board shall be prohibited.
 - (e) Structural supports and base. The support and base structure of a sign shall not exceed 50% of the maximum permitted message area of the sign. Such supports and base shall be measured on the single side or face having the greatest surface area. If the sign structural supports and base are made of wood, brick and/or stone, with only incidental use of other materials, the structure/base size limit shall be increased to 100% of the maximum permitted message area of the sign. The top of the supporting structure of a freestanding sign shall extend no farther above the top of the message area than 1/3 of the maximum permitted height of the message area.
 - (f) No sign shall project over a street or sidewalk, except for projecting signs as permitted herein.
 - (g) No sign shall be placed in such a position as to endanger vehicular or pedestrian traffic by obstructing a clear view, by causing confusion with government signs and signals, or by any other means.
- (14) Movable signs. Movable signs shall be prohibited. No vehicle, including parts thereof, trailers, and other accessories, shall be used as a means of circumventing the purpose and intent of this chapter. A vehicle displaying a commercial message which is licensed, registered and inspected shall be exempt from these sign regulations if it is regularly and customarily used to transport persons or property for the business.
- (15) Flags, banners, pennants, etc.
- (a) In addition to the signs otherwise permitted by this chapter, there may be displayed, on any lot, up to three flags displaying any otherwise legal symbol, message or information, commercial or noncommercial; except that off-site commercial flags shall be restricted as set forth in this chapter. No such flag shall exceed 24 square feet measured by one face of the flag only.

Any such flag shall be mounted directly to one flagpole. A "flagpole" is a pole intended and placed solely for the support and display of a flag or flags, and does not include utility poles, light poles, trees or other sign structures. All flagpoles shall be erected vertically, or within 45° of the vertical. No portion of any flagpole shall be sited within 10 feet of a property line. No flagpole shall extend more than 35 feet in height above grade or, if mounted on a building, 55 feet above the average finished grade of the building.

- (b) Banners, feather flags, pennants, searchlights, twirling signs, balloons or other gas-filled figures, and other such materials shall be prohibited, except as specified herein. **[Amended 4-14-2015 by Art. 2]**
 - (c) This subsection shall not be construed to prevent any sign otherwise permitted by this chapter, and which conforms to all sign requirements of this chapter, from taking the form of a flag or other fabric. Banners may be used to cover part or all of an existing freestanding, projecting or wall sign to advertise temporary events. The net effect of this activity shall not increase the message area of any permitted sign or signs.
- (16) Maintenance. All surfaces and supporting structures of signs, whether erected prior to the effective date of this chapter or not, shall be maintained in a safe and sightly condition to the satisfaction of the Board of Selectmen or its authorized agent. A permit is required for any maintenance except the following: repainting; other surface renewal; or change of message on the same surface.
- G. Restrictions regarding home occupations. A home occupation is considered accessory to a residential use and shall not occupy an area greater than 50% of the total floor area of the residential unit or 1,500 square feet, whichever is less. Home occupations are subject to the following provisions and restrictions:
- (1) The home occupation shall be carried on by persons who live in the principal residential unit full time. Two employees living off-premises are permitted.
 - (2) The home occupation shall be carried on within the principal residential unit or an approved accessory structure.
 - (3) Exterior storage of commercial vehicles, equipment or materials or variation from the residential character of the principal residential unit shall not be permitted.
 - (4) The home occupation shall create no unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or other nuisance or threat to the health of the abutters.
 - (5) Adequate off-street parking shall be provided.
 - (6) A home occupation shall not generate excessive traffic or traffic in greater volumes than would normally be expected in a residential neighborhood.
 - (7) A home occupation may display a sign conforming to Subsection F(10)(1) above.⁷⁹

⁷⁹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (8) A change-of-use permit to operate a home occupation is required before startup of operation.
 - (9) Retail or wholesale sales are only permitted for those items raised or made on the premises.
 - (10) A home occupation shall not be offensive to the character of the neighborhood or decrease abutting property values.
- H. Farm and nursery stands. Farm and nursery stands for selling indigenous produce or plants are considered temporary structures and are permitted, provided that:
- (1) Farm stands shall not exceed 1,200 square feet of gross floor area unless granted site plan review approval by the Planning Board.⁸⁰
 - (2) Three off-street parking spaces shall be required to be provided for structures up to 100 square feet in size. Additional parking shall be required at the rate of one space per 200 square feet over 100 square feet.
 - (3) Wall signs shall not exceed 10 square feet in size. One portable A-frame sign per lot, not to exceed six square feet, shall be allowed to be displayed during business hours only.
 - (4) All structures, parking areas and signs shall meet the setback requirements established herein.
- I. Yard sales. Yard sales shall be permitted, provided that no one household holds sales on more than six days per calendar year.⁸¹
- J. Mobile homes, travel trailers and recreational vehicles. One mobile home used as a residential unit is permitted on a lot in the district.⁸²
- (1) A mobile home, travel trailer or recreational vehicle may be permitted on the site of a construction project for one year, provided that it is a necessary convenience for the construction project and that no public safety or health hazards shall be created.
 - (2) One travel trailer or recreational vehicle may be stored on a lot, provided that it is not utilized for dwelling purposes.
 - (3) All mobile homes permitted under this subsection must be connected to a sewerage system and water source, both meeting minimum local and State of New Hampshire standards, as applicable and then promulgated; such systems shall be approved by the Selectmen or their designated agent and be maintained so as not to cause a health or sanitation hazard.

80. Editor's Note: See Ch. 110, Site Plan Review.

81. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

82. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

K. Special exceptions. The following land uses shall be allowed if granted a special exception by the Zoning Board of Adjustment:

- (1) Nursing homes. In order to protect existing property owners in the district against a new use nearby which may be incompatible or undesirable but also allow for nursing homes with acceptable accessory commercial uses such as gift shops, flower shops and candy shops, which are restricted to on-premises facilities, the Zoning Board of Adjustment may grant a special exception for nursing homes in the district, provided that:⁸³
 - (a) The nursing home development is architecturally compatible with the surrounding neighborhood;
 - (b) Traffic access to and from the development will not alter the character of the neighborhood;
 - (c) Lighting will be of such design as not to disturb the tranquility of the neighborhood;
 - (d) Outpatient and day-care facilities operate during reasonable hours;
 - (e) The facility will not operate as a crisis center for drug addiction, alcoholism or the mentally disturbed;
 - (f) Accessory commercial space on the premises for the sole purpose of the nursing home occupants and employees will be operated and managed by the nursing home owners, and the same space will not be leased to outside businesses;
 - (g) The nursing home structure shall not exceed two stories in height above grade;
 - (h) The maximum density allowed is 16 beds per acre; and
 - (i) The land to be developed for such use contains no less than five acres.
- (2) Charitable fund-raising events. A special exception may be granted for charitable fund-raising events operated by or on behalf of nonprofit organizations having a federal tax exemption, provided that:
 - (a) The event is not offensive to the character of the neighborhood;
 - (b) The event is for a brief, predetermined length or duration not to exceed three consecutive days; and
 - (c) The event complies with the guidelines and procedures for review of license applications for special events in the Town of Conway, as prescribed by the Conway Board of Selectmen.⁸⁴

83. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

84. Editor's Note: See Ch. 120, Special Events.

- (3) Private educational facilities. A special exception may be granted to permit private educational facilities, with or without accessory uses, provided that:
- (a) Traffic access to and from the facility will not alter the character of the abutting residential neighborhood;
 - (b) The development is architecturally compatible with the height, scale, color and detail of the surrounding residential neighborhood; and
 - (c) The proposed facility will not adversely affect abutting properties by reason of undue light, noise, density of use, or other nuisance.
- (4) Day-care centers. A special exception may be granted to home-based day-care centers serving seven people to 15 people and other non-home-based centers, regardless of the number of people served, provided that:
- (a) Traffic access to and from the development will not alter the character of the abutting residential neighborhood;
 - (b) The development is architecturally compatible with the height, scale, color and detail of the surrounding residential neighborhood;
 - (c) Site plan approval or a site plan exemption is granted by the Planning Board; and
 - (d) The size of the lot is appropriate to provide green space and play areas.
- (5) Commercial golf facilities. A special exception may be granted for traditionally full-sized golf courses and those accessory uses traditionally associated with this primary use, such as a clubhouse with a lounge and restaurant facility, professional shop, golf practice range, tennis courts and swimming pools, but not to include miniature golf, provided that:
- (a) The specific site is an appropriate location for such use, not only in context with the land to be dedicated to such use but in context with the surrounding land uses as well. The applicant shall dedicate a specific parcel(s) to the proposed facility, which shall not be used for residential density. In order to determine this, the following criteria shall be evaluated:
 - [1] Property values. The applicant shall present information by a certified appraiser indicating that there will be no negative impact on abutting properties as a result of the proposed special exception;
 - [2] Traffic. No traffic hazard will be created and traffic access will not alter the character of the neighborhood. The main access point shall be from an arterial or collector and not from neighborhood streets. The Zoning Board of Adjustment may consider the comments of the Town Planning Director in evaluating the traffic study. A traffic study shall be completed that shows the impact of the proposed development in its entirety on the nearest signalized intersection(s). For intersections that are of an overall level of service (herein "LOS") C or better, the LOS at

the nearest signalized intersection(s) shall not fall below LOS C during the a.m. and p.m. peak hours as a result of the development. If LOS C cannot be maintained, the applicant shall make such changes as are necessary to bring the intersection to LOS C, provided that such improvements are acceptable to the Zoning Board of Adjustment. The applicant may choose to reduce the development so as to produce an acceptable LOS. If the LOS is already below C (D, E or F), the project shall only be approved if the LOS is brought up to D. The applicant may choose to reduce the development so as to produce an acceptable LOS;⁸⁵

- [3] Nuisances; hazards. The Zoning Board of Adjustment shall review the operation of the development, including noise, odors and any hazards associated with the use and location. If the Zoning Board of Adjustment determines that any hazards or nuisances cannot be overcome and are not customarily found in a residential neighborhood, the proposed use shall be denied;
- [4] Adequacy of private/municipal facilities. The Zoning Board of Adjustment shall review the proposed facilities, including drainage, sewer/septic, water, electric and other utilities, to ensure adequate provisions to meet the needs of the proposed development. It may consider the opinion of the Town Engineer in making this determination;
- [5] Design and architecture. The design and architecture of the proposed structure shall be reviewed by the Zoning Board of Adjustment to determine its compatibility with abutting residential structures. The scale, height, color and detail shall be similar to and/or aesthetically compatible with residential structures;
- [6] Lighting. The lighting plan shall be submitted to the Zoning Board of Adjustment for approval. No direct glare shall be permitted. Parking areas and walkways may be illuminated by luminaires so hooded or shielded as to not extend significantly beyond the parking and walkway areas;
- [7] Hours of operation. Hours of operation will be appropriate so as to not interfere with the abutting residential neighborhood by means of excess traffic in off-peak hours, unshielded lighting that disturbs residential uses and other factors that make the facility different from a residential neighborhood;
- [8] Buffer. A perimeter buffer area adjacent to all abutting properties shall be left undisturbed if wooded and, if open, shall be planted with dense evergreen plantings. It shall be 100 feet in depth at a minimum unless a

85. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

greater buffer is required by the Zoning Board of Adjustment due to the intensity of the use and interference with adjacent properties; and⁸⁶

[9] Site plan. Site plan approval by the Planning Board is also required.⁸⁷

- (6) Resort hotel. A special exception may be granted for a resort hotel and those uses traditionally associated with this use, provided that:
- (a) The resort hotel is constructed on and in conjunction with a commercial golf facility or with another recreational/resort use on the supporting acreage;
 - (b) The minimum lot size for the lot supporting the combined commercial golf course and resort hotel shall be 200 acres, exclusive of that acreage that falls within the Wetlands Conservation District;
 - (c) To the extent not previously satisfied in an approval for a commercial golf facility, the resort hotel and its site will comply with all of the conditions required for a commercial golf facility;
 - (d) In addition to the buffer area required for commercial golf courses, the resort hotel building(s) shall be set back no closer than 1,000 feet to the boundary line of any other unaffiliated lot (An "unaffiliated lot or roadway" is a lot or roadway not owned or controlled by the applicant or its principals.); and
 - (e) The number of guest rooms in the resort hotel will be dependent upon the acreage allocated to the combined facility/resort hotel lot, at a ratio of two acres per guest room.
- (7) Post offices. A special exception may be granted to permit a publicly or privately owned post office, provided that:
- (a) Traffic access to and from the site will not alter the character of the abutting residential neighborhood;
 - (b) The post office is architecturally compatible with the surrounding residential district;
 - (c) The proposed facility will not adversely affect abutting properties by reason of undue light, noise, density of use or decreased property values;
 - (d) No portion of the building may be used for any purpose other than a post office;
 - (e) At such time as the facility ceases to be used as a post office, the building and improvements shall either be razed or converted to a use allowed in the district; and

86. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

87. Editor's Note: See Ch. 110, Site Plan Review.

- (f) The minimum dimensional lot requirements (lot size, setbacks, frontage, etc.) may be increased by either the Zoning Board of Adjustment or the Planning Board if it is found that the aforementioned criteria cannot be met using minimum dimensional requirements.
- (8) Heliports. A special exception may be granted to permit heliports as a private/business accessory use. The requirement for a special exception to be granted under this section shall not be applied to the use of helicopters, or any other type of aircraft, being used on a temporary basis for such purposes as emergency response, medical necessity, ongoing construction projects that have been permitted by the Town of Conway, or temporary (fewer than seven days) news media coverage. Before a special exception for a heliport can be granted by the Zoning Board of Adjustment, the following conditions must be met:
- (a) The use of the site for a heliport shall not be offensive to the character of the neighborhood;
 - (b) The use of the site for a heliport shall not decrease abutting property values. Evidence supporting property values must be submitted by any party with an interest in the granting of the special exception from a creditable source that is knowledgeable of land evaluation and property values;
 - (c) Any site being considered to contain a heliport must be, at a minimum, five acres in size;
 - (d) Other site dimensions, above and beyond the overall acreage requirement listed above, shall be sufficient to provide safety areas suitable to meet all FAA-suggested dimensions and requirements;
 - (e) Before the Zoning Board considers any application for a special exception for this land use, all federal and state approvals which are required must be obtained by the applicant, with copies of these approvals submitted as part of the request for a special exception; and
 - (f) A major site plan approval shall be required of the applicant from the Planning Board for the heliport, which is accessory to an approved business. As a condition for the granting of the special exception, no use of the heliport may be engaged by the applicant until all conditions of the special exception, including a major site plan approval, have been satisfied by the applicant.⁸⁸
- (9) A special exception may be granted for helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term nature. No approval for a special exception shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to Town residents and their property.

88. Editor's Note: See Ch. 110, Site Plan Review.

- (10) Business development parks. A special exception may be granted for a business development park that provides educational and technical assistance as well as incubation space and infrastructure for new and existing business development, including roads, buildings, and other necessary infrastructure within the district, provided the following conditions are satisfied:⁸⁹
- (a) The subject property must have some of its boundary within or contiguous with the boundary of a Highway or Village Commercial District.
 - (b) Arterial road. The business development park must front on and access an existing arterial road.
 - (c) Setbacks. The minimum front, side and rear setback from all adjacent properties and roads shall be 100 feet.
 - (d) Parking lots. Parking lots shall not exceed 20,000 square feet in gross area.
 - (e) Nuisances; hazards. The applicant must demonstrate that the operations of the business development park, including noise, odors and any other expected hazards associated with the development, are consistent with that of a residential neighborhood.
 - (f) Property values. The applicant shall provide a comprehensive report, by an appraiser licensed by the State of New Hampshire, which demonstrates that there will be no negative impact on abutting properties. This report shall be reviewed and comments will be provided by the Town Assessor.
 - (g) Traffic study. The applicant must provide a traffic study, certified by a qualified engineer licensed by the State of New Hampshire, which clearly indicates the traffic impacts that would result from the project and improvements to the existing transportation infrastructure that would be necessary to ensure appropriate access and level of service. This report shall be reviewed and comments will be provided by the Town Engineer.
 - (h) Buffer. A perimeter buffer area adjacent to all abutting properties and streets shall be left in its undisturbed natural state or, if disturbed, shall be replanted with indigenous species. The minimum buffer depth shall be 100 feet.
 - (i) Recreation use. The business development park will construct a passive and active recreation trail system within the project for use by tenants of the business development park and the public. The trail system shall provide links to other existing or future publicly accessible trails adjacent to the property. The rate of trail system construction shall be, at least, consistent with the rate of development of the business development park. The recreation trails may cross the buffer only to connect with existing or future publicly accessible trails on adjacent properties and if they do not impair the effectiveness of the buffer.

89. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (j) Green space. Green space shall comprise not less than 35% of the total lot area, exclusive of wetlands, water bodies, the one-hundred-year floodplain and slopes over 25%.
- (11) Kennels. A special exception may be granted to permit kennels for transient (fewer than 30 days) housing of domestic animals or commercial breeding facilities for domestic animals, provided that:
- (a) Minimum lot size is two acres.
 - (b) Animal housing areas, if indoors, shall be set back 40 feet from side and rear property lines and 60 feet from rights-of-way. Pastures/Outdoor exercise areas shall be set back 15 feet from any property line.
 - (c) A written plan for the disposal/removal of animal waste must be submitted along with the application requesting the special exception from the Zoning Board. This plan must be approved by the Board as a condition of the special exception approval, if granted.
 - (d) All animals shall be kept in an indoor area between the hours of 6:00 p.m. and 8:00 a.m.
- (12) Wireless communication facilities. Wireless communication facilities may be allowed by special exception in the RR District, on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:
- (a) Since the visual impact of wireless communication facilities can transcend Town lines, communities that may be visually affected shall be formally notified of applications for such proposed facilities as projects having regional impact.
 - (b) The applicant must demonstrate that every reasonable effort has been made to cause the facility to have the least possible visual impact on the Town at large, including demonstration of realistic analysis of multiple sites, the need for the proposed height, and any impact on significant roadside viewpoints.
 - (c) Any wireless communication facility shall be designed to accommodate multiple providers of communication services and will only be approved under the condition that the primary developer of the facility will make the facility available upon reasonable terms by lease or other legal instruments to other wireless communication services.
 - (d) The Board of Adjustment may request detailed plans from the applicant and may, at the expense of the applicant, engage the services of professional consultants to review and comment on the proposal, and testimony of the applicants or their agents relating thereto.
 - (e) Major site plan approval must be obtained from the Planning Board.⁹⁰

90. Editor's Note: See Ch. 110, Site Plan Review.

- (13) Mobile homes. The Zoning Board of Adjustment may grant a special exception for a mobile home on a lot on which a single-family residential structure exists if the following conditions are met:
- (a) The mobile home shall be occupied only as the usual residence of the immediate family, including grandparents, parents and children, of the owner and/or spouse of the primary single-family residential structure on the lot, and the lot shall be at least one acre if served by municipal water and sewerage and at least two acres in all other cases; or the mobile home shall be occupied as the usual residence of a full-time agricultural employee and his immediate family, and the single-family residence shall be part of an owner-operated farm of 25 acres or more.
 - (b) The special exception shall terminate on a change of ownership or occupancy of either the mobile home or the primary residential structure.
 - (c) A permit shall be obtained from the Selectmen or their agent, which shall be renewed yearly to ensure compliance with the above conditions.

§ 190-25. Mountain Conservation Overlay (MCO) District.

The MCO District is primarily designed to preserve scenic mountain areas. Land uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

- A. District boundaries and map.
 - (1) District boundaries. The Mountain Conservation District shall consist of all land north and east of the Saco River which is above 800 feet in elevation, referenced to the North American Vertical Datum of 1929.
 - (2) District map. The MCO District Map is included as an attachment to this chapter.
- B. In areas where the MCO District overlays the Recreational Resort District, the following uses shall also be permitted:
 - (1) Alpine ski trails.
 - (2) Alpine ski lifts.
 - (3) Snowmaking equipment.
 - (4) Night ski lighting.
- C. Excavation shall be prohibited in the Mountain Conservation District.
- D. Helicopters. A special exception may be granted for helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term nature. No approval for a special exception shall be granted unless the ZBA makes a finding that the

helicopter use will not constitute a nuisance or hazard to Town residents and their property.

§ 190-26. Floodplain Conservation Overlay (FCO) District.

The FCO District is primarily designed to promote and protect the health, safety and general welfare of the Town by providing reasonable regulations governing development and use of the floodplain. Land uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries and map.

- (1) District boundaries. The Floodplain Conservation Overlay District is hereby determined to be those areas designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study for the County of Carroll, N.H. dated March 19, 2013, together with the associated Flood Insurance Rate Maps dated March 19, 2013, which are declared to be part of this chapter and are hereby incorporated by reference.
- (2) District map. The FCO District Map is included as an attachment to this chapter.

B. Special exceptions.

- (1) The following land uses shall be allowed within the floodplain, except those areas within the floodway, unless expressly allowed in the floodway hereunder if granted a special exception by the Zoning Board of Adjustment:
 - (a) Uses, but not structures, compatible to open space.
 - (b) Limited agricultural extraction of sand, gravel and other materials for noncommercial use.
 - (c) Boat landings and boat access areas within the floodway.
 - (d) Railroads, streets, driveways, bridges, utility transmission lines and pipelines.
 - (e) Storage yards for equipment, machinery or materials accessory to adjacent permitted uses.
 - (f) Fill or materials to be deposited in the floodplain may be allowed by special exception, provided that the purpose is consistent with the permitted uses represented in the Permitted Use Table included as an attachment to this chapter and the amount thereof is not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials. Such fill or other materials shall be protected against erosion by riprap, vegetation cover or bulkheading.
 - (g) Municipal and school district facilities.
 - (h) Agricultural buildings that do not require septic systems.

- (i) The construction or maintenance of farm, forest or recreational service roads.
- (j) River or floodway maintenance.
- (k) In the area around Pequawket Pond between the one-hundred-year flood level and the ten-year-flood level (464.1 feet to 460.5 feet), as shown on the maps described herein, development, substantial improvements and building, provided that it is serviced by precinct water and sewerage and the lowest floor is above the one-hundred-year-flood level.
- (l) Signs for permitted uses and existing nonconforming uses as provided in § 190-31, Nonconformity, provided that the signs meet the minimum standards and intent for signs in the underlying district.
- (m) Accessory industrial-commercial uses, limited to loading areas, parking areas and aircraft landing strips.
- (n) Heliports. A special exception may be granted to permit heliports, as a private/business accessory use. The requirement for a special exception to be granted under this subsection shall not be applied to the use of helicopters, or any other type of aircraft, being used on a temporary basis for such purposes as emergency response, medical necessity, ongoing construction projects that have been permitted by the Town of Conway, or temporary (fewer than seven days) news media coverage. Before a special exception for a heliport can be granted by the Zoning Board, the following conditions must be met:
 - [1] The use of the site for a heliport shall not be offensive to the character of the neighborhood.
 - [2] The use of the site for a heliport shall not decrease abutting property values. Evidence supporting property values must be submitted by any party with an interest in the granting of the special exception from a creditable source that is knowledgeable of land evaluation and property values.
 - [3] Any site being considered to contain a heliport must be, at a minimum, five acres in size.
 - [4] Other site dimensions, above and beyond the overall acreage requirement listed above, shall be sufficient to provide safety areas suitable to meet all FAA-suggested dimensions and requirements.
 - [5] Before the Zoning Board considers any application for a special exception for this land use, all federal and state approvals which are required must be obtained by the applicant, with copies of these approvals submitted as part of the request for the special exception.
 - [6] A major site plan approval shall be required of the applicant from the Planning Board for the heliport, which is accessory to an approved business. As a condition for the granting of the special exception, no use of the heliport may be engaged by the applicant until all conditions

of the special exception, including a major site plan approval, have been satisfied by the applicant.⁹¹

- (2) Conditions. No special exceptions shall be granted, however, until the following conditions are met:
 - (a) All development and substantial improvements shall comply with the minimum standards of the regulations of the National Flood Insurance Program contained in 44 CFR 60.3 and 44 CFR 60.6 (Code of Federal Regulations), as amended.
 - (b) New and replacement water supply, replacement septic systems and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharges from the systems into floodwaters.
 - (c) All fill, new construction, substantial improvements and other development within the floodway shall be prohibited unless the applicant's New Hampshire registered engineer can show, through hydrologic and hydraulic analyses performed in accordance with standard engineering practices, that the activity would not result in any increase in flood hazard within the Town of Conway.
 - (d) The granting of the special exception would not violate the general spirit of this chapter nor would it create a public health or safety hazard.
- (3) A special exception may be granted for helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term nature. No approval for a special exception shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to Town residents and their property.

C. Special provisions.

- (1) There shall be no expansion of present nonconforming buildings or pre-existing septic systems in the floodplain, provided that this shall not prohibit the maintenance, repair and/or correction of such pre-existing septic systems which malfunction. There shall be no allowance of a new septic system in the floodplain.
- (2) Existing nonconforming buildings within this district, which have been substantially damaged, may be repaired within one year, provided that they comply with the minimum standards of the regulations of the National Flood Insurance Program. (See definition of "substantial damage" in § 190-32.) Buildings not rebuilt to such standards shall be removed completely.
- (3) Changes to watercourses.

91. Editor's Note: See Ch. 110, Site Plan Review.

- (a) In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the NHDES Wetlands Bureau and submit copies of such notification to the Board of Selectmen, in addition to the copies required by RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent towns as determined by the Board of Selectmen, including notice of all scheduled hearings before the Wetlands Bureau.
 - (b) Along watercourses with a designated regulatory floodway, no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge. In Zone A, the Building Inspector shall obtain, review and reasonably utilize any floodway data available from federal, state or other sources as criteria for requiring that development meets the floodway requirements of this section.
 - (c) Along watercourses that have not had a regulatory floodway designated, no new construction, substantial improvements or other development (including fill) shall be permitted within Zones A1-A30 and AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- (4) All developments which are floodproofed shall be certified by a New Hampshire registered professional engineer or architect that the floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood.
 - (5) Where the Floodplain Conservation District is superimposed over another zoning district, the more restrictive regulations shall apply.
 - (6) Within the altered or relocated portion of any watercourse, the applicant shall submit to the Building Inspector certification provided by a registered professional engineer assuring that the flood-carrying capacity of the watercourse has been maintained.
 - (7) In Zone A, the Building Inspector shall obtain, review and reasonably utilize any floodway data available from a federal, state or other source as criteria for requiring that development meets the floodway requirements of this section.
 - (a) In special flood hazard areas, the Building Inspector shall determine the one-hundred-year-flood elevation in the following order of precedence according to the data available:
 - [1] In Zone AE, refer to the elevation provided in the community's Flood Insurance Study and accompanying FIRM.

- [2] In A Zones, the Building Inspector shall obtain, review and reasonably utilize any one-hundred-year-flood elevation data available from federal, state, development proposals submitted to the community (for example subdivisions, site approvals, etc.) or other sources.
- [3] In Zone AO, the one-hundred-year-flood elevation is determined by adding the elevation of the highest adjacent grade to the depth number specified on the FIRM or, if no depth number is specified on the FIRM, at least two feet.
- (8) Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (9) The Building Inspector shall maintain for public inspection and furnish upon request any certification of floodproofing and the as-built elevation (in relation to mean sea level) of the lowest floor (including the basement) of all new or substantially improved structures and include whether or not such structures contain a basement, and if the structure has been floodproofed, the as-built elevation (in relation to mean sea level) to which the structure was floodproofed. This information must be furnished by the applicant.
- (10) Excavation shall be prohibited in the Floodplain Conservation District.

D. Variances.

- (1) A variance is a relaxation or setting aside, in a specific case, of certain specified terms of this chapter. In accordance with RSA 674:33, I(b), the applicant shall have the burden of showing, in addition to the usual variance standards under state law:
 - (a) That the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense;
 - (b) That, if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result; and
 - (c) That the variance is necessary, considering the flood hazard, to afford relief.
- (2) Notification.
 - (a) The ZBA shall notify the applicant in writing that:
 - [1] The issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - [2] Such construction below the base flood level increases risks to life and property.
 - (b) Such notification shall be maintained with a record of all variance actions.

- (3) The community shall:
- (a) Maintain a record of all variance actions, including the justification for their issuance; and
 - (b) Report such variances issued in its annual or biannual report submitted to FEMA's Federal Insurance Administrator.

§ 190-27. Shoreline Protection Overlay (SPO) District.

The SPO District is primarily designed to allow for use of the water and careful development of the land immediately adjacent to all Great Ponds so as to protect and enhance water quality, preserve natural beauty and aesthetic qualities, prevent overcrowding of the shoreland and protect aquatic and terrestrial wildlife habitat. Excavations are specifically prohibited in this district. Multifamily residential buildings shall not be permitted if the underlying district is Residential Agricultural (RA). Land uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries and map.

- (1) District boundaries. The Shoreline Protection Overlay District shall be comprised of all land within 300 feet from the edge of water of all Great Ponds, except in Conway Village, where the zone shall only extend to the center line of Route 16 or to the three-hundred-foot line from Pequawket Pond, whichever is less restrictive. In no case shall the district extend more than 300 feet inland from the edge of water.
 - (a) Great Ponds include the following: Conway Lake, Dolloff Pond, Echo Lake, Labrador Pond, Pequawket Pond, and Puddin' Pond. For purposes of this district, "Pequawket Pond" shall include Page Randall Brook north and west of Tasker Hill Road and Pleasant Street and shall include the outlet brook entering Pequawket Pond from Upper Pequawket Pond.
 - (b) The "edge of water" shall be considered the point where water and land meet, and this is defined by the following elevations above mean sea level:
 - [1] Conway Lake: 436 feet.
 - [2] Dolloff Pond: 550 feet.
 - [3] Echo Lake: 510 feet.
 - [4] Labrador Pond: 550 feet.
 - [5] Pequawket Pond: 458 feet.
 - [6] Puddin' Pond: 537 feet.

- (2) District map. The SPO District Map is included as an attachment to this chapter.

B. Water frontage. All lots fronting on a Great Pond shall have a minimum of 150 feet of water frontage.

- C. Development density. The overall density of development on a lot shall be determined with standard zoning and subdivision criteria such as lot size and natural resource constraints. However, the density of development allowed within 300 feet of the normal high-water elevation shall be restricted by the amount of water frontage. In case of conflicting results, the more restrictive regulation shall apply. Density within 300 feet of the normal high-water elevation shall be as follows:
- (1) The first unit shall have 150 feet of water frontage.
 - (2) Each additional existing unit set back 100 feet or less from the edge of water shall have 150 feet of water frontage.
 - (3) Each additional new or existing unit set back more than 100 feet but less than or equal to 200 feet from the normal high-water elevation shall have 150 feet of water frontage.
 - (4) Each additional new or existing unit set back more than 200 feet but less than or equal to 300 feet from the edge of water shall have 50 feet of water frontage.
- D. Shoreline setbacks. Each structure shall have a one-hundred-foot minimum setback from the normal high-water elevation in all underlying zoning districts; with the exception of boat storage sheds, which shall be set back a minimum of 50 feet from the normal high-water elevation.
- E. Lot coverage. Coverage of a lot with structures and impervious surfaces, including but not limited to buildings, driveways and sidewalks, shall be restricted as follows:
- (1) In the commercial districts, no more than 65% of the lot may be covered.
 - (2) In all other districts, no more than 25% of the lot may be covered.
- F. Buffer. There shall be a fifty-foot-wide vegetated buffer along the water frontage of each lot. This buffer serves as a natural filter to protect the lakes from contaminated surface runoff, provides habitat for terrestrial wildlife, protects aesthetic qualities of the lake environment and helps prevent erosion of the shoreline. The following restrictions shall apply to the buffer:
- (1) One access path across the buffer, up to 10 feet in width (measured parallel to the shoreline), is allowed for each 150 feet of water frontage. Such paths shall be designed to prevent erosion and runoff into the lake.
 - (2) No vegetation less than four inches in diameter, measured at 4 1/2 feet above ground level, shall be cut, trimmed, pruned or removed, except to provide for permitted access paths.
 - (3) For vegetation four inches or more in diameter, measured 4 1/2 feet above ground level (hereafter referred to as "trees"), no more than 10% of the basal area of trees may be removed from the buffer (not including the area of permitted access paths) in any five-year period. Before any cutting may occur, the Zoning Officer shall be provided with a plat indicating the size and location of all trees in the buffer, which indicates the total basal area before and after the proposed cutting and

which indicates all measures to be taken to prevent destruction of the buffer and protect the water quality. Cutting may occur only after receipt of written authorization from the Zoning Officer.

- (4) No cutting or trimming of living tree limbs shall be permitted.
 - (5) Dead trees and dead limbs may be cut down upon written authorization from the Zoning Officer.
 - (6) For beaches permitted in Subsection H, some clearing of land within the buffer is required. In no case shall such clearing for a beach extend inland more than 10 feet from the normal high-water elevation, and such clearing shall be no longer than the permitted beach.
- G. Docks. Docks which are completely removed from the water for the winter season shall be permitted as follows:
- (1) Maximum number of docks shall be one per 150 feet of water frontage, but lots with less than 150 feet of water frontage are permitted one dock.
 - (2) A dock shall not extend more than 30 feet into the water.
 - (3) A dock shall not be wider than 10 feet in width.
- H. Private beaches. Beaches on a Great Pond which are not owned by a unit of government shall be regulated as follows:
- (1) Existing beaches may be maintained without the use of any machines or motorized equipment below the high-water elevation. Washed sand shall be the only material which may be added to the beach. The amount of washed sand added shall not exceed one cubic yard per three feet of beach length in any five-year period. A zoning permit and all applicable state permits shall be required before any sand is deposited, and it shall be the responsibility of the Zoning Officer to maintain records to monitor beach maintenance.
 - (2) New beaches may be created only when the following conditions are met:
 - (a) The lot shall be considered to have an area suitable for a beach if it meets each of the following criteria:
 - [1] The slope of land from the high-water elevation to a line 10 feet inland shall not have slopes steeper than 10%.
 - [2] The slope of the land from the high-water elevation to a line 20 feet out into the water shall not have slopes steeper than 10%.
 - [3] The proposed beach site shall be determined by an independent wildlife biologist to be of minimal importance as fish habitat and/or spawning area (written report from the wildlife biologist shall be provided to the Town).

- [4] The area proposed for a beach above the high-water elevation is not on or within 10 feet of poorly or very poorly drained soils or wetlands.
- [5] All proposed beaches must comply with the requirements set forth in RSA Ch. 482-A and the New Hampshire Code of Administrative Rules, as amended.⁹²
- (b) A beach shall be no longer than 10% of the length of water frontage, except that no beach shall be required to be less than 15 feet in length.
- (c) No more than one cubic yard of sand per three feet of beach length shall be used to create the beach. Compliance with this requirement shall be documented to the Zoning Officer by means of providing all receipts for beach construction. Only washed sand shall be used for beach construction.
- (d) Once established, the maintenance requirements listed in Subsection H(1) shall apply.
- (e) Erosion control measures shall be provided such that runoff shall not run across the beach, with a design certified by a New Hampshire licensed professional engineer and reviewed by the Carroll County Conservation District.
- (f) A New Hampshire licensed professional engineer shall inspect the site three times: before construction; after grubbing but before sand is added; and when construction is completed. The professional engineer shall certify that all work is completed in accordance with the plans provided to the Town and in accordance with these requirements.
- (g) All other required permits and approvals are obtained.
- I. Shorefront common areas. Shorefront common areas are those areas used for water recreation and/or access by users living off-site. Such areas shall comply with the following:
- (1) Shorefront common areas shall not be located on lots smaller than two acres.
 - (2) The lot shall have, at a minimum, 50 feet of water frontage per family or household having rights of use; provided, however, that no more than 500 feet of water frontage shall be required for any one shorefront common area.
 - (3) Parking lots for shorefront common areas shall be set back a minimum of 200 feet from the normal high-water elevation. The parking area shall be screened from view of the water by a strip of trees and shrubs at least 25 feet wide.
 - (4) Creation or alteration of shorefront common areas shall be subject to site plan review.

92. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- J. Earth disturbance. Prior to any work activity in which digging will occur or the ground's vegetative cover will be removed or substantially disturbed, sufficient erosion and sedimentation control measures shall be installed in accordance with RSA 485-A:17 and the New Hampshire Code of Administrative Rules, as amended. Such measures, which may include hay bales and silt fences, shall be maintained in proper working order until the ground surface is stabilized and no longer subject to erosion. The control measures shall be installed to protect both the lake and the buffer (in order to preserve the buffer's natural filtering capacity).⁹³
- K. Water quality. In order to afford maximum protection to the lakes' water quality, the application of chemical fertilizer, insecticides or other chemicals shall be prohibited in the district. In addition, drainage shall be controlled and treated as best as is reasonably possible for any construction or activity, or as a result of any land use, such as access paths. Local regulation of pesticide management is preempted by RSA 430:49.
- L. Special exceptions. The following shall be prohibited unless granted a special exception by the Zoning Board of Adjustment. If granted a special exception under this subsection, a site plan review approval shall be required prior to construction.⁹⁴
- (1) Protective riprap. Riprap to protect shores from erosion shall be granted a special exception by the Zoning Board of Adjustment, provided that the following conditions are met:
 - (a) All required state and federal permits are obtained; and
 - (b) The shoreline is being eroded by action of the waters and the riprap will protect the shoreline from further erosion without enhancing erosion at another location on the shoreline.
 - (2) Building on undersized lots. Building on pre-existing lots with insufficient acreage shall be granted a special exception by the Zoning Board of Adjustment, provided that the following conditions are met:
 - (a) There is a state-approved septic system or connection to a municipal sewer.
 - (b) Any building to be constructed shall be configured and located on the lot to create the maximum shoreline setback practical. If appropriate, rear and sideline setbacks may be reduced by the Zoning Board of Adjustment by up to 50% to facilitate maximum shoreline protection.
 - (c) Clearing of lots may be limited by the Zoning Board of Adjustment as a condition of approval so as to prevent erosion runoff problems.
 - (3) Municipal and state facilities. Municipal and state facilities, including beaches and boat launches, shall be granted a special exception by the Zoning Board of Adjustment, provided that the following conditions are met:

93. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

94. Editor's Note: See Ch. 110, Site Plan Review.

- (a) All required state and federal permits are obtained.
- (b) Sand for a beach shall not be deposited in water which is deeper than 4.5 feet nor farther than 75 feet out from the high-water elevation. For erosion control of the beach area, a barrier shall be constructed between the water and the sand on the beach. The site shall not be normally subject to erosion by action of the water nor by the grade of the shoreline slope.
- (c) In order to shield the view of parked vehicles from the water and to protect the water from runoff from parking areas, parking shall be located behind a landscaped area of natural or planted vegetation at least 50 feet in depth. Parking areas shall be gravel. Appropriate drainage controls shall be constructed and maintained to protect the Great Pond.
- (d) Footpaths may be cleared across the vegetated area for access to the beach. They shall be kept at a minimum width which serves pedestrian access to the water.

§ 190-28. Wetland and Watershed Protection Overlay (WWPO) District.

The WWPO District is primarily designed to protect the public health, safety and general welfare by protecting valuable wetland and water resources; preventing the harmful filling, draining, sedimentation, or alteration of wetlands and watercourses; protecting unique and unusual natural areas; preventing the development of structures and land uses on naturally occurring wetlands, which could contribute to pollution of surface water and groundwater by sewage; preventing the destruction or significant degradation of wetlands which provide flood and storm control by the hydrologic absorption and storage capacity of the wetland; protecting fish and wildlife habitats by providing breeding, nesting, and feeding grounds for many forms of plant and animal life, including rare, threatened, or endangered species; protect existing and potential water supplies, aquifers and aquifer recharge areas; providing pollution treatment to maintain water quality; preventing expenditures of municipal funds for the purpose of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of wetlands; providing for compatible land uses in and adjacent to wetlands or surface waters which serve to enhance, preserve, and protect wetland areas and water bodies as natural resources. Excavation shall be prohibited in statutory wetlands. Land uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries and map.

(1) District boundaries.

- (a) The WWPO District shall be comprised of all land within 100 feet from the edge of:

[1] All water bodies, excluding Great Ponds, which are covered under the Shoreline Protection Overlay District; and certain man-made water bodies, such as fire ponds, agricultural/irrigation ponds, sedimentation/detention basins, and sewerage lagoons;

- [2] All year-round watercourses;
 - [3] All wetland areas of three or more contiguous acres, excluding constructed or legally altered wetlands that are not part of a wetland mitigation plan, and vegetated swales and roadside ditches;
 - [4] All wetland areas as shown on the Town of Conway 1997 Wetlands Composite Map abutting a water body or year-round watercourse, regardless of the wetland acreage involved;
 - [5] All perennial watercourses and hydric areas depicted as having poorly or very poorly drained soils according to the Soils Survey of Carroll County, New Hampshire (approved in 1973, and issued in 1977); and
 - [6] All wetland areas, except wet woodlands (designated as WW-1 and WW-2), identified and delineated in a report entitled "The Wetlands of Conway, New Hampshire - An Inventory and Evaluation," United States Department of Agricultural Extension Service Wetlands Project, Report No. 1, dated 1979.
- (b) Disputed or incorrectly delineated wetlands. When there is a dispute over the delineation of a mapped wetland, or in cases where an unmapped wetland is delineated, it may be resolved with a plan certified by a wetland or soil scientist licensed by the State of New Hampshire that delineates the wetlands in accordance with the criteria established in and defined by the Corps of Engineers Wetlands Delineation Manual Technical Report Y-87-1, Environmental Laboratory, Department of the Army, 1987 and Regional Field Indicators for Identifying Hydric Soils in New England, New England Interstate Water Pollution Control Commission, 1998.
- (2) District map. The WWPO District Map is included as an attachment to this chapter.
- B. Shoreline and wetland setbacks.
- (1) Each structure shall have a seventy-five-foot minimum setback from the edge of the water or edge of wetland, whichever is farther landward. Boat storage sheds, however, may be set back a minimum of 50 feet from the edge of the water or edge of wetland. In the Residential/Agricultural District, storage sheds shall be set back a minimum of 50 feet from the edge of water or edge of the wetland. Only one storage shed is allowed per lot within the buffer.
 - (2) Special provisions.
 - (a) No septic tank or leach field may be constructed or enlarged closer than 100 feet to any wetland.
- C. Shoreline and wetland buffer. There shall be a fifty-foot-wide vegetated buffer along the edge of the water or edge of wetland, whichever is farther landward. This buffer serves as a natural filter to protect the waters and wetlands from contaminated surface runoff, provides habitat for terrestrial wildlife, protects aesthetic qualities of the water and

wetland environment and helps prevent erosion of the shoreline. The following restrictions shall apply to the buffer:

- (1) One access path across the buffer, up to 10 feet in width (measured parallel to the shoreline), is allowed for each 150 feet of water frontage. Such paths shall be designed to prevent erosion and runoff into the water or wetland. Path installation may occur only after receipt of a zoning permit from the Zoning Officer.
 - (2) Municipal trails on government lands and municipal trails across other lands (for which the Town of Conway has accepted trail easements) may be located within shoreline and wetland buffers, provided that they are designed and maintained to prevent erosion and runoff into the water or wetland.
 - (3) No vegetation less than four inches in diameter, measured at 4 1/2 feet above ground level, shall be cut, trimmed, pruned or removed, except to provide for permitted access paths.
 - (4) For vegetation four inches or more in diameter, measured 4 1/2 feet above ground level (hereafter referred to as "trees"), no more than 10% of the basal area of trees may be removed from the buffer (not including the area of permitted access paths) in any five-year period. Before any cutting may occur, the Zoning Officer shall be provided with a plat indicating the size and location of all trees in the buffer, which indicates the total basal area before and after the proposed cutting and which indicates all measures to be taken to prevent destruction of the buffer and protect the water quality. Cutting may occur only after receipt of a zoning permit from the Zoning Officer.
 - (5) No cutting or trimming of living tree limbs shall be permitted.
 - (6) Dead trees and dead limbs may be cut down only after receipt of a zoning permit from the Zoning Officer.
 - (7) For beaches permitted herein, where some clearing of land within the buffer is required, in no case shall such clearing for a beach extend inland more than 10 feet from the normal high-water elevation, and such clearing shall be no longer than the permitted beach.
 - (8) Agricultural and timber harvesting activities and operations shall be permitted uses within the buffer area, provided they conform to best management practices established by the United States Department of Agriculture Natural Resources Conservation Service, Cooperative Extension and/or the New Hampshire Department of Agriculture and RSA Ch. 227-J.
- D. Docks. Docks which are completely removed from the water for the winter season shall be permitted as follows:
- (1) Maximum number of docks shall be one per 150 feet of water frontage, but lots with less than 150 feet of water frontage are permitted one dock.
 - (2) A dock shall not extend more than 30 feet into the water.

- (3) A dock shall not be wider than 10 feet in width.
 - (4) A zoning permit must be obtained prior to the installation of a dock.
- E. Private beaches. Beaches which are not owned by a unit of government shall be regulated as follows:
- (1) Existing beaches may be maintained without the use of any machines or motorized equipment below the high-water elevation. Washed sand shall be the only material which may be added to the beach. The amount of washed sand added shall not exceed one cubic yard per three feet of beach length in any five-year period. A zoning permit and all applicable state permits shall be required before any sand is deposited, and it shall be the responsibility of the Zoning Officer to maintain records to monitor beach maintenance.
 - (2) New beaches may be created only when the following conditions are met:
 - (a) The lot shall be considered to have an area suitable for a beach if it meets each of the following criteria:
 - [1] The slope of land from the high-water elevation to a line 10 feet inland shall not have slopes steeper than 10%.
 - [2] The slope of the land from the high-water elevation to a line 20 feet out into the water shall not have slopes steeper than 10%.
 - [3] The proposed beach site shall be determined by an independent wildlife biologist to be of minimal importance as fish habitat and/or spawning area (written report from the wildlife biologist shall be provided to the Town).
 - [4] The area proposed for a beach above the high-water elevation is not on or within 10 feet of poorly or very poorly drained soils or wetlands.
 - [5] All proposed beaches must comply with the requirements set forth in RSA Ch. 482-A and the New Hampshire Code of Administrative Rules, as amended.⁹⁵
 - (b) A beach shall be no longer than 10% of the length of water frontage, except that no beach shall be required to be less than 15 feet in length.
 - (c) No more than one cubic yard of sand per three feet of beach length shall be used to create the beach. Compliance with this requirement shall be documented to the Zoning Officer by means of providing all receipts for beach construction. Only washed sand shall be used for beach construction.
 - (d) Once established, the maintenance requirements listed in Subsection E(1) shall apply.

95. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (e) Erosion control measures shall be provided such that runoff shall not run across the beach, with a design certified by a New Hampshire licensed professional engineer and reviewed by the Carroll County Conservation District.
 - (f) A New Hampshire licensed professional engineer shall inspect the site three times: before construction; after grubbing but before sand is added; and when construction is completed. The professional engineer shall certify that all work is completed in accordance with the plans provided to the Town and in accordance with these requirements.
 - (g) All other required permits and approvals are obtained.
- F. Shorefront common areas. Shorefront common areas are those areas used for water recreation and/or access by users living off-site. Such areas shall comply with the following:
- (1) Shorefront common areas shall not be located on lots smaller than two acres.
 - (2) The lot shall have, at a minimum, 50 feet of water frontage per family or household having rights of use; provided, however, that no more than 500 feet of water frontage shall be required for any one shorefront common area.
 - (3) Parking lots for shorefront common areas shall be set back a minimum of 200 feet from the normal high-water elevation. The parking area shall be screened from view of the water by a strip, at least 25 feet wide, of trees and shrubs.
 - (4) Creation or alteration of shorefront common areas shall be subject to site plan review.⁹⁶
- G. Earth disturbance. Prior to any work activity in which digging will occur or the ground's vegetative cover will be removed or substantially disturbed, sufficient erosion and sedimentation control measures shall be installed in accordance with RSA 485-A:17 and the New Hampshire Code of Administrative Rules, as amended. Such measures, which may include hay bales and silt fences, shall be maintained in proper working order until the ground surface is stabilized and no longer subject to erosion. The control measures shall be installed to protect the water, the wetland and the buffer (in order to preserve the buffer's natural filtering capacity).⁹⁷
- H. Water quality. In order to afford maximum protection to water quality, the application of chemical fertilizer, insecticides or other chemicals shall be prohibited in the district. In addition, drainage shall be controlled and treated as best as is reasonably possible for any construction or activity, or as a result of any land use, such as access paths. Local regulation of pesticide management is preempted by RSA 430:49.
- I. Special exceptions. The following shall be prohibited unless granted a special exception by the Zoning Board of Adjustment. If granted a special exception under this section, a

⁹⁶. Editor's Note: See Ch. 110, Site Plan Review.

⁹⁷. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

site plan review approval shall be required prior to construction. References to the "shoreline" shall be considered either the shoreline of the water body/watercourse or the edge of wetland, whichever is farther landward. Any special exception shall be granted only after having found that there is no better feasible alternative, in keeping with state and federal standards for the issuance of development permits in 404 jurisdictional wetlands.

- (1) Protective riprap. Riprap to protect shores from erosion shall be granted a special exception by the Zoning Board of Adjustment, provided that the following conditions are met:
 - (a) All required state and federal permits are obtained; and
 - (b) The shoreline is being eroded by action of the waters and the riprap will protect the shoreline from further erosion without enhancing erosion at another location on the shoreline.
- (2) Building on undersized lots. Building on pre-existing lots with insufficient acreage shall be granted a special exception by the Zoning Board of Adjustment, provided that the following conditions are met:
 - (a) There is a state-approved septic system or connection to a municipal sewer.
 - (b) Any building to be constructed shall be configured and located on the lot to create the maximum shoreline setback practical. If appropriate, rear and sideline setbacks may be reduced by the Zoning Board of Adjustment by up to 50% to facilitate maximum shoreline protection.
 - (c) Clearing of lots may be limited by the Zoning Board of Adjustment as a condition of approval so as to prevent erosion runoff problems.
- (3) Municipal and state facilities. Municipal and state facilities, including beaches and boat launches, shall be granted a special exception by the Zoning Board of Adjustment, provided that the following conditions are met:
 - (a) All required state and federal permits are obtained.
 - (b) Sand for a beach shall not be deposited in water which is deeper than 4.5 feet nor farther than 75 feet out from the high-water elevation. For erosion control of the beach area, a barrier shall be constructed between the water and the sand on the beach. The site shall not be normally subject to erosion by action of the water nor by the grade of the shoreline slope.
 - (c) In order to shield the view of parked vehicles from the water and to protect the water from runoff from parking areas, parking shall be located behind a landscaped area of natural or planted vegetation at least 50 feet in depth. Parking areas shall be gravel. Appropriate drainage controls shall be constructed and maintained to protect the Great Pond.

- (d) Footpaths may be cleared across the vegetated area for access to the beach. They shall be kept at a minimum width which serves pedestrian access to the water.
- (4) Wetland or stream crossing: the construction of a wetland or stream crossing for purposes of streets, roads and other access ways and utility right-of-way easements, including power lines and pipelines. A special exception for these uses may be granted if the following conditions are met:
 - (a) The use is essential to the productive use of land not in the district; and
 - (b) The use is so located and constructed as to minimize the detrimental impact upon the wetlands.
- (5) Water storage or impoundment: the construction of a water storage or impoundment.
- (6) Any use not otherwise permitted or otherwise allowed by special exception in a wetland, which may include the erection of a structure, dredging, filling, draining or otherwise altering the surface configuration of a wetland. A special exception may be granted, provided that the following conditions are met:
 - (a) The proposed use will not conflict with the purpose and intent of the district. To support this claim, the applicant shall provide proper written evidence, which shall be accompanied by the findings of a review by the United States Natural Resources Conservation Service; and
 - (b) The use is permitted in the underlying zoning district.

§ 190-29. Groundwater Protection Overlay (GWPO) District.

The GWPO District is primarily designed to safeguard current and potential future groundwater sources of municipal drinking water. Initially, the policy shall only establish a protective radius around each municipal well and shall prohibit incompatible land uses within that radius. Eventually, the policy should be expanded in scope to prevent land use/groundwater quality conflicts throughout the entire draw-down/recharge area of each existing or potential municipal well. Land uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries and map.

- (1) District boundaries. The WWPO District shall be comprised of a four-hundred-foot protective radius around each well serving the Conway Village Fire District and/or the North Conway Water Precinct municipal water supply systems.
- (2) District map. The GWPO District Map is included as an attachment to this chapter.

B. Restrictions. Within the protective radius, only the following land uses are permitted: open space, gravel driveways, and structures relating to the well and water distribution system.

- C. Nonconforming uses. A pre-existing use which is nonconforming with respect to the protective radius restrictions shall not be entitled to the same rights as are established in § 190-31A. The use shall be eliminated, changed to a conforming use, or changed only in a manner which reduces the threat to the water quality of the groundwater.
- D. Permits. Any change in land use within the protective radius shall require a permit from the Zoning Officer. The Zoning Officer shall require a completed change-of-use application; and a survey of the entire protective radius area at a scale of one inch equals 20 feet showing all natural and man-made features. The Zoning Officer shall forward a copy of the application to the municipal entity owning the well for review and comments. The municipal entity shall have one week to comment, and the Zoning Officer shall not issue an approval for the change of use until the comment period has expired.

§ 190-30. Special Highway Corridor Overlay (SHCO) District.

- A. Purpose. Realizing the importance of the Conway Bypass to the economy, quality of life, and general welfare of Conway and all of the Mount Washington Valley, this Special Highway Corridor Overlay District is created as an integral part of the Town's overall effort to protect and preserve the unique features of the valley's landscape for the Town and region. At the same time, the Corridor District is designed to allow for appropriate development, compatible with the scenic, largely rural quality of the road corridor. Specifically, the purpose of the Special Highway Corridor District is to:
 - (1) Implement the objectives and policies of the Town's Master Plan, which recognizes the critical importance of proper physical planning, community appearance and aesthetics to the short- and long-term economic health of the region's heavily tourism-driven economy.
 - (2) Establish and maintain the bypass as an attractive gateway to the Mount Washington Valley.
 - (3) Prevent adverse environmental impacts such as water, air, light, and noise pollution, flooding and clear-cutting of vegetation.
 - (4) Prevent the destruction of important natural and scenic views and vistas.
 - (5) Encourage high-quality development in keeping with the natural and rural character of the landscape.
 - (6) Prevent uncontrolled commercialism and aesthetic degradation of the bypass corridor.
 - (7) Preserve the function of the bypass in moving traffic and commerce efficiently through the valley to and from points north.
- B. District boundaries and map.
 - (1) District boundaries. The Special Highway Corridor Overlay District shall include all land within the corporate limits of the Town of Conway that is within 500 feet

of the edge of the right-of-way of the Conway Bypass and its intersections up to the extent of the limited-access right-of-way for the Conway Bypass as depicted on 1993 public hearing plans of the State of New Hampshire Department of Transportation on file at the Town of Conway. Excluded from the district is that portion of the limited-access right-of-way as so depicted as it runs northerly from the center line of NH Route 113/U.S. Route 302 in the Village of Center Conway to its northern terminus at the center line of NH Route 16/U.S. Route 302 to the north of the Village of North Conway.

- (2) District map. The SHCO District Map is included as an attachment to this chapter.

C. Applicability.

- (1) The provisions set forth in this section shall apply, upon development, to all land within 500 feet of the edge of the right-of-way of the Conway Bypass, located within the corporate limits of the Town of Conway, and where the Special Highway Corridor District has been so applied on the Zoning Map of the Town of Conway.
- (2) All applications for a local building permit, septic permit, well permit subdivision approval, or site plan approval shall be subject to the provisions of this section.
- (3) Any applicant seeking said approvals will be responsible for providing the required information before the appropriate approval will be considered.
- (4) The Town of Conway, through its administrative and operating departments, shall be subject to the provisions of this section.
- (5) Any pre-existing hospital shall not be subject to the provisions of this overlay district with respect to any expansion or modification of the hospital or any of its usual and customary accessory uses.

D. Development standards. The Special Highway Corridor District shall be an overlay district. Development standards of the Special Highway Corridor District shall be the same as for the underlying zoning district(s), except as modified herein. In particular, all development standards of Chapter 110, Site Plan Review, and Chapter 130, Subdivision of Land, of the Conway Code shall apply, except as modified herein.

E. Permitted uses; general intent. Permitted uses shall be the same as for the underlying zoning district(s), except that developments or land uses which would require extensive tree and land clearing for development purposes shall not be permitted. Land uses which typically fall into prohibited developments on all land uses include, but are not limited to, the following examples: outdoor storage or display of automobiles and outdoor storage of bulk commodities such as salt and gravel. (See also Subsection L, Lot coverage.)

F. Lot size. Minimum lot size requirements shall be the same as for the underlying zoning district(s), except as modified herein.

G. Required yard setbacks. Required yard setbacks shall be the same as for the underlying zoning district(s), except as modified herein.

H. Protective buffer strip abutting the bypass.

- (1) Upon development, any lot abutting the special highway right-of-way shall have a protective buffer strip along the length of the right-of-way as follows:
 - (a) For an industrial, commercial or multifamily residential use: 100 feet deep.
 - (b) For a single-family residential use: 75 feet deep.
- (2) The protective buffer strip shall be naturally vegetated and/or planted with native trees and undergrowth. The goal is to develop a continual natural woodland buffer along the bypass so that it will provide visual appeal to those using the bypass and screen from view the development that abuts the bypass. Where the required buffer strip does not contain existing trees displaying a typical woodland appearance, and where views would be to development rather than to a scenic view or vista, the developer shall install native plant materials appropriate to the condition and soil type of the strip. As soil conditions allow, such plant materials shall include a mixture of northeastern hardwood, evergreen species, trees, saplings, shrubs and ground cover. Required plants shall be installed in a staggered, random pattern over the entire width of the buffer strip, as conditions allow. Plants shall not be installed in a linear, uniform row(s). To qualify as an approved protective buffer, the minimum existing or installed planting density shall be one tree for every two linear feet of right-of-way frontage for the entire depth of the buffer strip (e.g., 50 trees planted in a ten-thousand-square-foot area; a one-hundred-foot-deep buffer along a one-hundred-foot section of the right-of-way for a commercial use). To be credited as a qualifying tree, an existing or planted tree shall have a caliper of at least 1.5 inches at a point six inches above the top of the root ball at planting. A mixture of small and larger trees at or above the minimum caliper size at planting shall be encouraged to more closely approximate a condition of natural succession.
- (3) All existing, planted, and volunteer vegetation shall be allowed to grow in a natural, undisturbed condition in succession toward a mature tree canopy and woodland area. However, timber within the buffer strip may be managed and harvested in accordance with RSA Ch. 227-J. No development permit issued by the Town shall be intended by the Town to exempt the land area within the protective buffer yard from the timber management standards of RSA 227-J:9, I. Upon loss or removal of trees, whether by death, disease, harvesting, or other reasons, to a density less than the minimum required under Subsection H(2) above, the property owner/developer shall be required to restore the lost or removed trees at the first appropriate planting season.
- (4) If the Planning Board shall determine that it is desirable to maintain or open up a scenic view or vista, the Planning Board may allow for nonforested (i.e., pastoral, farming) open space within the required protective buffer strip.
- (5) The Planning Board may reduce the width of the required protective buffer strip as part of its approval of the site plan or subdivision plat, taking into consideration the topography of the area, the actual location of the highway pavement within the right-of-way corridor, the size of land parcels affected by the protective buffer strip, and whether the buffer strip requirement would render the entire property

unusable. Reduction of the required buffer strip shall not be granted without clear justification, however, and in no event shall the Planning Board reduce the required width of the buffer strip to less than 30 feet.

- (6) The required protective buffer strip abutting the bypass right-of-way shall be drawn on all site plans and subdivision plats.
- I. Protective buffer strip abutting intersection streets.
 - (1) Upon development, a minimum protective buffer of 25 feet shall be established adjacent to any street right-of-way which intersects and shares common access with the special highway for a distance of 200 feet from the intersection of the rights-of-way of the street and the special highway. The requirements for the buffer shall be the same as set forth in Subsection H(2), (3) and (4), except the minimum planting density shall be one tree per every five linear feet of frontage along the intersecting street.
 - (2) As an option, the protective buffer along the intersecting street may be installed and maintained as a designed landscape planting in accordance with the planting standards of Chapter 110, Site Plan Review, § 110-29, of the Conway Code.
 - (3) Where the protective buffer adjoining the special highway and the protective buffer adjoining the intersecting street overlap, the dimensional and planting requirements of the special highway buffer shall apply.
 - J. Development density. The overall density of development shall be the same as for the underlying zoning district(s).
 - K. Density credit for required protective buffer strip. No lot shall be less than 1/2 acre of buildable land. In calculating the total lot yields for a subdivided property which falls in part, or in whole, within the Special Highway Corridor District, the area of land within the required protective buffer strip abutting the bypass may be included in the acreage calculations, and minimum lot sizes may be reduced accordingly. No lot size reduction, however, may supersede acreage or other standards necessary to accommodate a state-approved subsurface sewage disposal system and well radius if required.
 - L. Lot coverage. Coverage of a lot or portions of a lot within the district with structures and impervious surfaces, including but not limited to buildings, driveways and sidewalks, shall be restricted as follows:
 - (1) In the Residential/Agricultural District, no more than 25% of the lot may be covered.
 - (2) In the Business District, no more than 65% of the lot may be covered.
 - M. Nonimpervious surface area credit for protective buffer strip. In determining the maximum impervious surface area of a developed lot, the area of land within the required protective buffer strip abutting the bypass may be credited in the calculations as part of the nonimpervious surface area of the lot.
 - N. Signs.

- (1) Any and all commercial, residential, or other signs shall be placed or designed so as to be oriented or directed away from the bypass and to minimize their visibility from the bypass. This shall not apply to state-approved informational and directional signs within the right-of-way of the Conway Bypass.
 - (2) No signage of any kind or size shall be permitted within the required protective buffer strip abutting the bypass right-of-way.
 - (3) Other sign requirements shall be as set forth in the underlying district.
- O. Lighting. No outdoor lighting fixture shall be mounted higher than 20 feet in all zoning districts within the Special Highway Corridor District. Parking areas and walkways may be illuminated by luminaries so hooded or shielded as to not extend substantially beyond the parking and walkway areas. Lighting in excess of the minimum required to illuminate any outdoor area for the purpose intended shall be prohibited. Outdoor architectural lighting shall also be strongly discouraged in keeping with a largely rural setting.
- P. Building height. So as to preserve the largely rural, wooded character of the Special Highway Corridor, and to maintain building heights well below the height of the mature tree canopy, buildings shall not exceed 35 feet in height. Church steeples may exceed the thirty-five-foot height limit if approved as may be permitted in the underlying district. Telecommunication towers shall not be permitted within the Special Highway Corridor District.
- Q. Building size. So as to avoid expansive areas of tree clearing, no building with a footprint greater than 5,000 square feet inside exterior walls shall be permitted. No less than 40 feet shall be allowed as a separation distance between buildings. When necessary to accommodate larger projects, several structures with building footprints of no more than 5,000 square feet each may be placed on the same lot, provided that all other standards are met. Efforts to save and plant native trees between and among structures shall be encouraged.
- R. Parking.
- (1) Parking requirements shall be as specified in Chapter 110, Site Plan Review, § 110-21, of the Conway Code, except as modified herein.
 - (2) So as to avoid expansive areas of tree clearing and asphalt, developments requiring parking in excess of 30 spaces shall provide parking in several parking areas of no more than 30 parking spaces each. Such parking areas shall be separated by natural or planted landscaped areas or by buildings. Efforts to save and plant native trees between and among the parking areas and buildings shall be encouraged.
 - (3) The requirement for the separation of parking areas, specified under Subsection R(2) above, shall not diminish the requirements for traffic control islands and associated landscaping within each parking area, as specified in Chapter 110, Site Plan Review. Required traffic control islands otherwise meeting the minimum requirements of Chapter 110 shall not typically qualify as a "landscaped area" as described in Subsection R(2) above.

- S. Intent of building and parking standards. The intent of the building and parking standards set forth above is to encourage development forms which take on the appearance of buildings and parking areas nestled under a canopy of trees.
- T. Site planning for scenic views and vistas. When setting principal structures or other land use activities within the Special Highway Corridor District, the developer is encouraged to design the site in a manner so as to protect, preserve and facilitate scenic views and vistas, thereby furthering the purpose of this section. Scenic views and vistas may include but not be limited to views to significant and/or unique areas of natural beauty such as lakes, ponds, marshes, rivers, mountaintops, trees, open space, and hillsides. Also included may be scenes which depict the area's historic, cultural, rural and/or farming heritage, and natural recreation amenities such as golf courses and outdoor trails.
- U. Utilities. All utility systems shall be placed underground in conformity with the terms and specifications of the utility company involved.

§ 190-31. Nonconformity.

This section specifies those rights to which nonconforming uses, structures, signs and lots are entitled.

- A. Nonconforming uses. Any lawful nonconforming use may continue indefinitely. In the event that such use is abandoned for any period of time, its reestablishment shall not be permitted. When there is a question regarding abandonment, the burden of proof shall be on the property owner rather than the Town.
 - (1) A lawful nonconforming use may be expanded in the normal course of business if granted approval by the Zoning Officer. The Zoning Officer shall grant the approval only if the following conditions are met:
 - (a) The expansion is accessory to the existing nonconforming use.
 - (b) The expansion shall be limited to the original lot of record on which the nonconforming use is located, subject to the following:
 - [1] The original lot of record shall be identical in size and boundaries to the lot at the time of passage of the zoning provision which caused the nonconformity; or the lot may have been reduced in size since the date of passage of the zoning provision which caused the nonconformity, provided that the newly created lot is entirely contained within the boundaries of the original lot of record.
 - [2] In no case shall the expansion render the lot proportionally less adequate, using this chapter, Chapter 130, Subdivision of Land, and/or Chapter 110, Site Plan Review, requirements for a standard, if appropriate.
 - [3] The property owner shall be responsible for providing documentation defining the original lot of record.

- (2) A lawful nonconforming use may be changed to a different nonconforming use if granted a special exception. The Zoning Board of Adjustment shall grant the special exception only if the following conditions are met:
- (a) The proposed use shall be confined to the same lot to which the original nonconforming use would be confined [see Subsection A(1)].
 - (b) The proposed use shall have the same or a lesser impact on the neighborhood relative to the following:
 - [1] Public health, safety and/or welfare.
 - [2] Impact on property values of adjacent properties.
 - [3] Traffic.
 - [4] Nuisance to neighbors.
 - [5] Noise.
 - [6] Nighttime lighting.

B. Nonconforming structures.

- (1) The two-dimensional footprint of a lawful nonconforming structure shall not be expanded unless granted approval by the Zoning Officer. Approval may be granted only if the following conditions are met:
 - (a) The nonconforming structure is not in the Floodplain Conservation Overlay District.
 - (b) Sanitary septic disposal and water supply are provided if it is a primary structure.
 - (c) The expansion shall be in a direction away from that which the setback is intended to protect or buffer.
- (2) The three-dimensional envelope of a nonconforming structure shall not be expanded unless granted approval by the Zoning Officer. Approval may be granted only if the following conditions are met:
 - (a) If a downward expansion within a setback from a lake, pond, river or stream, it shall not extend any lower than the estimated seasonal high-water table.
 - (b) If an upward expansion, it shall not have any adverse impact on any neighboring properties, including but not limited to blocking sunlight and/or views.
 - (c) If an upward expansion, it shall not exceed the maximum height limitation specified in this chapter.
 - (d) If an enclosure of a space within the existing two-dimensional footprint, it shall be permitted except in the Floodplain Conservation Overlay District.

- (e) No part of the nonconforming structure is in the Floodplain Conservation Overlay District.
 - (f) The expanded nonconforming structure shall not create a greater impact on traffic, parking, noise, or nighttime lighting.
- C. Nonconforming signs. Signs lawfully in existence before the adoption of regulations which made them nonconforming shall be permitted to continue in existence and be maintained.
- (1) No change in type, size of message area and/or support structure, height, location, message, illumination, number, or material shall be permitted without application to and approval from the Town.
 - (2) Nonconforming aspects of the sign may continue, but no additional types of nonconformity shall be created by any change.
 - (3) Permitted changes may allow reduction in any one or more nonconforming aspects, but shall not allow any nonconforming aspect of the sign to become increasingly nonconforming.
 - (4) If a nonconforming sign is abandoned, the grandfathered rights shall terminate and any replacement shall comply with the requirements of this chapter.
- D. Nonconforming lots. The following control nonconforming lots:
- (1) An undeveloped, nonconforming lot may continue to exist indefinitely, unless it is less than 70% of the applicable minimum lot size and is or becomes under the same ownership as an adjoining lot, whether or not that adjoining lot is nonconforming. When common ownership occurs, the two adjoining lots shall be considered a single lot. Upon any Town official or board determining that such condition exists, the official or board shall notify, in writing, the owner, Tax Assessor, Zoning Officer, Board of Selectmen and Planning Board. The act of combining the lots shall be considered a decision of the Zoning Officer, and appeals shall follow the provisions of RSA Ch. 677.
 - (2) No action shall be permitted to change the boundary of the lot unless it brings the lot closer to conformance with this chapter and it makes no other aspect of the lot and/or all structures thereon more nonconforming.
 - (3) New structures are permitted on nonconforming lots only if the following conditions are met:
 - (a) Sanitary water supply and sewage disposal are provided for any primary structure; and
 - (b) The proposed structure meets all setback requirements.
 - (4) In the Shoreline Protection District, preexisting lots with insufficient acreage may be permitted to be built upon if granted a special exception. The Zoning Board of Adjustment shall grant a special exception only if the following conditions are met:

- (a) There is a state-approved subsurface sewage system or connection to a municipal sewer.
- (b) Any building to be erected shall be configured and located on the lot to create the maximum shoreline setback practical. If appropriate, any non-shore setback may be reduced by up to 50% to facilitate maximum shoreline protection.
- (c) Clearing of lots may be limited by the Zoning Board of Adjustment as a condition of approval so as to prevent erosion and runoff into the Great Pond.

§ 190-32. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ABANDONMENT — An intentional action to abandon or relinquish the use of a property in which some overt act or failure to act carries the implication that the owner neither claims nor retains any interest in the use.

ACCESSORY APARTMENT — An apartment accessory to a single-family dwelling, either attached or detached. Such accessory apartments shall be not less than 300 square feet and no greater than 800 square feet.

ACCESSORY BUILDING OR USE — A building or use subordinate and customarily incidental to the main building or use on the same lot.

AGRICULTURAL BUILDING — A building used for the storage of farm products, animal feed, stabling horses, for the housing of farm animals or farm equipment, forestry-related buildings and horticultural buildings. Such buildings must be accessory to an active, ongoing agricultural operation. Garages and sheds on properties which are used primarily residentially are not agricultural buildings.

APPENDAGE — A sign which is attached directly to or under a freestanding or projecting sign.

ARTERIAL — A street that is used or will be used primarily for through-traffic flow. These streets are Route 16, Route 113, Route 153, Route 302, Kancamagus Highway, West Side Road and River Road.

BASE FLOOD — The flood having a one-percent probability of being equaled or exceeded in any given year.

BASEMENT — Any area of a building having its floor subgrade on all sides.

BED-AND-BREAKFAST — Any dwelling in which transient lodging or boarding and lodging are provided and offered to the public by the owner for compensation. This dwelling shall also be the full-time, permanent residence of its owner; otherwise it shall be classified as a hotel/motel. There shall be no provisions for cooking in any individual guest room.

BOAT STORAGE SHED — A structure used for the storage of boats, having no plumbing or heating installed, having a floor area of 250 square feet or less, and being no more than 15 feet in height.

BUFFER — The area between the property boundaries and the front, sideline and back lot line setbacks as specified for size and use in this chapter and Chapter 110, Site Plan Review, of the Conway Code.

BUFFER/SPECIAL HIGHWAY CORRIDOR DISTRICT — A protective buffer strip naturally vegetated and/or planted with native or indigenous saplings, shrubs and ground covers displaying a typical woodland appearance appropriated to the condition and said type of the landforms. The purpose of the buffer is to provide a scenic, largely rural road corridor that is screened from view of development that abuts the highway corridor.

BUFFER/WETLAND — A naturally occurring undeveloped area bordering a wetland that serves to lessen the impact of disturbance; e.g., urban development and agriculture. This buffer shall consist of a natural area consisting of various species of trees, saplings, shrubs and ground cover in any combination and between any stages of growth.

BUILDING — An independent structure having a roof and any extensive additions thereto. It shall include a house trailer and a mobile home when used as a residential unit, but shall not include a travel trailer used as a temporary residence incidental to travel, recreation or vacation and not permanently hooked up to facilities necessary for usual year-round occupancy.

BUILDING FOOTPRINT — See "footprint."

BUILDING HEIGHT — The vertical distance from the lowest point of grade around the building to the mean gable elevation of the building, or to the top of a flat roof. The lowest point of grade shall be the lowest point at which the foundation is above the proposed or existing grade, whichever is less.

CARETAKER'S RESIDENCE — An accessory residential unit on a nonresidential premises, occupied by the person who oversees the nonresidential operation 24 hours a day and his or her family.

CHANGEABLE COPY — A sign, or portion thereof, with manually changeable lettering or display. This shall not include electronic-type displays with changeable messages.

COLLECTOR — A street that is used or will be used primarily for connecting local street traffic to the arterial street system. These are Mill Street (Center Conway), Old Mill Road, Brownfield Road, Tasker Hill Road, Passaconaway Road, Still Road, East Conway Road, Dolloff Hill Road, Stark Road, Rockhouse Mountain Road and West Main Street.

COMMERCIAL AMUSEMENT FACILITY — Any commercial use which offers for hire or to the general public access to structures, vehicles, mechanical or electrical contrivances, or other facilities which are intended primarily to provide entertainment, amusement or recreation, and in which the patron is engaged on the premises as an active participant rather than as a spectator. This shall not include volleyball, tennis or basketball courts, baseball, football or soccer fields, other similar sporting fields, or commercial golf facilities as

regulated in the underlying district, and shall exclude special events as permitted by the Board of Selectmen.⁹⁸

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

DIMENSIONAL NONCONFORMITY — That aspect of a lot or structure which does not comply with the dimensional requirements of this chapter, including but not limited to height, setback, frontage or area.

DIRECT GLARE — Illumination beyond property lines caused by direct specularly reflected rays from incandescent, fluorescent or arc lighting.

DOMESTIC ANIMALS — Dogs, cats, non-poultry birds, reptiles, exotics, ferrets, descended skunks, nine or fewer rabbits and nine or fewer fur-bearers other than rabbits.

DOMESTIC FARM ANIMALS — Horses, ponies, cattle, swine, deer, bison, greater than nine fur-bearers, sheep, goats, llamas, ratites, poultry or greater than nine rabbits.

EDGE OF WATER — Shall be determined by the normal high-water mark, defined herein.

EDGE OF WETLAND — Shall be determined by the criteria established in and defined by the Corps of Engineers Wetlands Delineation Manual Technical Report Y-87-1, Environmental Laboratory, Department of the Army, 1987 and Regional Field Indicators for Identifying Hydric Soils in New England, New England Interstate Water Pollution Control Commission, 1998.

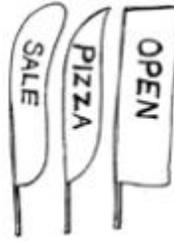
ESTABLISHMENT OF A SEXUALLY ORIENTED BUSINESS —

- A. The opening or commencement of any sexually oriented business as a new business;
- B. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- C. The relocation of any sexually oriented business; or
- D. The substantial enlargement of a sexually oriented business, which means the increase in floor areas occupied by the business by more than 25%, as the floor area exists on the date of the adoption of this chapter.

EXCAVATION — A land area which is used for the commercial taking of earth, including all slopes.

FEATHER FLAG — A vertical portable sign that contains a harpoon-style pole or staff driven into the ground for support or supported by means of an individual stand. (See Figure 2.) **[Added 4-14-2015 by Art. 2]**

98. Editor's Note: See Ch. 120, Special Events.

Figure 2

FIRM — Flood Insurance Rate Map, an official map incorporated within this chapter, on which FEMA has delineated both the special flood hazard areas and the risk-premium zones applicable to the Town of Conway.

FLAG — A piece of flexible fabric of distinctive design which is used as a symbol of a nation, state, province, county, town or religion, or which uses color, form, graphic, symbol, or writing to communicate information of any kind to the public, whether commercial or noncommercial. Excluded from this definition are feather flags as otherwise defined herein.

[Amended 4-14-2015 by Art. 2]

FLOOD INSURANCE STUDY (FIS) — An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations; or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

FLOODPLAIN — Land subject to a one-percent-or-greater chance of flooding in any given year which is designated as Zone A and/or AE on the Flood Insurance Rate Map.

FLOODWAY — The channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the flood having a one-percent chance of being equaled or exceeded in any given year without cumulatively increasing the water surface elevation more than one foot.

FOOTPRINT — The portion of a lot covered by all portions of any structure, including decks, porches, cantilevered sections and roof overhangs.

FREESTANDING SIGN — A self-supporting sign not attached to any building, wall or fence, but in a fixed location. This does not include movable signs.

FRONT SETBACK — The setback from a property line along a road right-of-way.

FUNCTIONALLY DEFICIENT — A septic system that fails to operate properly due to inability to handle sewage loads, improper design, construction, maintenance or operation, but shall not include a system that only fails to meet present state design standards. (See RSA 485-A:29 through 485-A:44 and NH Code of Administrative Rules Env-Ws 1000, requirements for subsurface waste water treatment.)

GREAT POND — A water body of more than 10 acres in the natural condition.

HAZARDOUS MATERIALS — Those chemicals or substances which are physical hazards or health hazards as defined in the currently adopted version of the State Building Code, whether the materials are in a usable or waste condition.⁹⁹

HEAVY INDUSTRY — A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products.

HELIPORT; HELIPAD; HELISTOP — Any landing or take-off area intended for use by helicopters or other rotary-wing-type aircraft capable of vertical take-off and landing profiles.

A. Neighborhood.

- (1) General: those in the immediate vicinity of a development site, i.e., abutters.
- (2) As it relates to aircraft activities: area within a five-thousand-foot radius of the development site.

B. Private/Business accessory use: available for the exclusive use of the business as an accessory for personal transportation purposes in conjunction with the operation of that business. Such uses shall not include scenic tours or chartered flight operations.

C. Private/Noncommercial accessory use: available for the exclusive use of the owner on personally owned land or other persons authorized by the owner for noncommercial use and for no financial gain.

D. Private/Public commercial use: available for use in aircraft operations for profit; those which, for a fee, provide air transportation for the public and/or transport goods and materials. This includes, but is not limited to, charter transportation, scenic tour flight operations, and other similar activities.

HISTORIC STRUCTURE — Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior; or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

⁹⁹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

HOME OCCUPATION — An occupation or profession which is carried on in no more than 50% of the square footage of the total square footage, or 1,500 square feet, whichever is less, of a detached, single-family dwelling unit by the full-time, permanent occupant of the dwelling which does not change the character thereof. By way of illustration, home occupations shall include, but not be limited to: the preparation of foods such as breads, cookies and jellies; construction of birdhouses and other small-scale wood products; quilting; fishing lure assembly, etc. The term "home occupation" shall include both professional and personal services, provided that they meet the other criteria set forth in this chapter. Retail sales shall be allowed only in situations where the product sold is produced entirely on-site.

HOTEL/MOTEL — A commercial building or group of buildings built to accommodate, for a fee, travelers and other transient guests who are staying for a limited duration with sleeping rooms, each rental unit having its own private bathroom and a common corridor or hallway. A hotel may include restaurant facilities where food is prepared and meals are served to its guests and other customers.

INTERMEDIATE BUSINESS — Any business with between 30,000 square feet and 1,500 square feet of gross floor area.

LEVEL OF SERVICE (LOS) — A set of qualitative and quantitative criteria that describe the degree to which an intersection, roadway, weaving section or ramp efficiently serves peak hours and/or daily traffic. Level of service calculations shall follow the 1985 Highway Capacity Manual, Chapter 9, Operational Procedure for Signalized Intersections, as amended.

Level of Service Criteria for Signalized Intersections

Level of Service	Stopped Delay per Vehicle (seconds)
A	Less than or equal to 5
B	5.1 to 15
C	15.1 to 25
D	25.1 to 40
E	40.1 to 60
F	Greater than 60

LIGHT INDUSTRY — The assembly, manufacture, processing, packaging or other industrial operations conducted in such a manner that all resulting cinders, dust, fumes, gas, odors, smoke and vapor are effectively confined to the premises or disposed of so as to avoid any air, ground or water pollution and conducted in such a manner that noise, light and vibrations will not be a nuisance or otherwise detrimental to abutting properties; a use involving the manufacture of a product not requiring heavy, noisy, or otherwise objectionable machinery or transporting equipment.

LOCAL/NEIGHBORHOOD STREETS AND ROADS — A street used primarily for direct access to property and not used for through-traffic flow. These streets are all those not designated as arterial or collector.

LOT — An area of land in one ownership, or one leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by the Planning Board and recorded in the Carroll County Registry of Deeds.

LOT, MINIMUM SIZE — The required lot area within a specific zoning district for a single use.

LOWEST FLOOR — The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such an enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

MAJOR BUSINESS — Any business with more than 30,000 square feet of gross floor area.

MALL — One building or several attached or detached buildings on one lot, including courtyards, whether or not covered, substantially surrounded by buildings in which two or more businesses are located and each business does not have a separate entrance or exit for public use fronting on a street or parking lot.

MANUFACTURED HOME — A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include a park trailer, travel trailers and other similar vehicles. This includes manufactured homes located in a manufactured home park.

MOBILE HOME — A single, complete and livable prefabricated residential unit, suitable for transport on wheels on its own chassis, regardless of whether or not left on wheels, and requiring connection to water, power and sewage disposal systems for proper occupancy.

MOBILE HOME PARK — A parcel of land, under single ownership, with accommodations for two or more mobile homes, travel trailers or recreational vehicles in use as dwellings, regardless of whether or not a charge is made for such accommodations.

MOBILE HOME SPACE — An area in a mobile home park designed to accommodate one mobile home stand and its related yards and other open space.

MOBILE HOME STAND — An area in a mobile home space upon which a mobile home is to be stationed.

MOVABLE SIGN — A sign capable of being readily moved or relocated, including portable signs mounted on a chassis and wheels, or supported by legs.

MULTIRESIDENTIAL UNITS — Units providing living quarters for two or more housekeeping units, such as, but not limited to, condominiums, clustering units, common-wall or row-type housing units, such as duplex or multihousekeeping units of the same nature, time-share arrangements in any type of housekeeping unit.

MUNICIPAL — Of or relating to the internal affairs of a major political unit, having a chartered local self-government.

NEW CONSTRUCTION — For the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NONCONFORMING LOT — A lot which does not comply with the dimensional requirements of this chapter.

NONCONFORMING STRUCTURE — That portion of a structure which does not comply with the requirements of this chapter.

NONCONFORMING USE — A use which is not permitted in the zoning district in which it is occurring.

NONCONFORMITY — A nonconforming use, structure or lot which was lawfully in existence prior to the enactment of the zoning requirement which made it nonconforming.

NORMAL HIGH-WATER MARK — The elevation of a body of water or watercourse as measured by the average natural high-water mark or to the average high-water mark when flowed by artificial means, such as by a dam.

- A. For Conway Lake, the normal high-water mark shall be 436.3 feet, which is the elevation of the water at the spillway of the dam.
- B. For Pequawket Pond, the normal high-water mark shall be 458 feet.
- C. For Dolloff Pond, the normal high-water mark shall be 550 feet.
- D. For Echo Lake, the normal high-water mark shall be 510 feet.
- E. For Puddin' Pond, the normal high-water mark shall be 537 feet.
- F. For Labrador Pond, the normal high-water mark shall be 550 feet.

OFF-SITE COMMERCIAL SIGN — A sign with a commercial message relating to a commercial activity not conducted on the lot.

OFF-SITE SIGN — A sign which is not located on the lot to which its message refers.

ORIGINAL LOT OF RECORD — The original lot or lots of record, on which a nonconforming use is located, which existed on the date of passage of the zoning requirement which made the use nonconforming.

OWNER-OCCUPIED LODGING HOUSE AND/OR OWNER-OCCUPIED BOARDINGHOUSE — Any place consisting of a room or group of rooms located on one premises where regular, nontransient-type accommodations for sleeping or living purposes, together with meals, are offered for compensation, provided that the same is occupied and

operated conjunctively by the owner, an individual person or persons, and shall not have more than four double-occupancy sleeping units.

OWNER-OCCUPIED TOURIST HOME AND/OR OWNER-OCCUPIED ROOMING HOUSE — Any place consisting of a room or a group of rooms located on one premises where transient or semi-transient accommodations for sleeping or living purposes are offered for compensation, provided that the same is occupied and operated conjunctively by the owner, an individual person or persons, and shall not have more than four double-occupancy sleeping units.

PARKING SPACE — An off-street space for exclusive use as a parking area for one motor vehicle, with a minimum size of nine feet by 18 feet to conform to Chapter 110, Site Plan Review, of the Conway Code.

PRIVATE EDUCATIONAL FACILITY — A non-government owned and operated facility used for purposes of teaching, studying, and learning.

PROJECTING SIGN — A sign which is affixed to a building and which extends more than 12 inches beyond the surface to which it is affixed.

PUBLIC OR INSTITUTIONAL EVENT — An event sponsored, run by, and benefiting a public or institutional entity. This shall not include any event which is conducted primarily as a business activity.

RECREATIONAL VEHICLE — A vehicle or vehicular attachment designed for temporary sleeping or living quarters for one or more persons, which is not a dwelling and which may include a pickup camper, travel trailer, tent trailer or mobile home.

RESIDENTIAL/DWELLING UNIT — A single unit providing complete and independent living facilities for one or more persons living as a household, including provisions for living, sleeping, eating, cooking, and sanitation.

ROOFLINE — The profile of a roof. In the case of features extending above the roofline, the profile shall be from whatever direction is the most restrictive.

SCENIC TOUR OPERATION — Any sightseeing flight conducted under visual flight rules in any type of aircraft for compensation or hire. Flights may be provided on a regular schedule or at varying frequencies based on passenger demands.

SCENIC VIEW OR VISTA SHED, SPECIAL HIGHWAY CORRIDOR DISTRICT — A vantage point with unique natural beauty for drivers on the highway or pedestrians in the district, which can best be appreciated by modifications to the protective buffer. Modifications to the buffer may include reducing or thinning the forested natural area or replacing forested vegetative material with other appropriate vegetative material in order to promote the vantage point.

SEASONAL STREAMS — A free-flowing body of water (i.e., a river, brook or tributary) which only runs for a part of the year.

SEDIMENT — Solid material, both mineral and organic, that is in suspension, is being transported or has been moved from its site of origin by air, water or gravity as a product of erosion.

SENIOR HOUSING UNIT — A dwelling, or portion thereof, capable of providing living quarters limited to two adults per unit, having a minimum age of 62 years old. Said dwelling unit(s) must be within a single building having at least 25 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 is defined as a unit 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.

SEPTIC SYSTEM — Any subsurface method of disposing of residential or commercial wastewater.

SETBACK — The minimum distance which buildings and structure are required to be set back from the nearest lot line (rear or side), measured at right angles or radial thereto. Setbacks from a road shall be measured from the nearest edge of the right-of-way of such road in the same manner. Where the edge of the road right-of-way is not shown on a recorded plan, then such edge shall be deemed to be located 30 feet from the center of the traveled portion of said road unless the right-of-way of such road can be shown to be wider than 60 feet. A road shall include either a public or a private right-of-way.

SEXUALLY ORIENTED BUSINESS — Any place of business in which any of the following activities are conducted:

A. ADULT BOOKSTORE OR ADULT VIDEO STORE —

- (1) A business that devotes more than 15% of the total display, shelf, rack, table, stand or floor area, utilized for the display and sale of the following:
 - (a) Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, videocassettes, slides, tapes, records, CD-ROMs, or other forms of visual or audio representations which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1; or
 - (b) Instrument, devices, or paraphernalia which are designed for use in connection with "sexual conduct" as defined in RSA 571-B:1, other than birth control devices.
- (2) An adult bookstore or adult video store shall not be deemed to include a business selling or distributing books, magazines and periodicals which are a minor, incidental part of its principal stock-in-trade (meaning its inventory) so long as said business shall devote less than 15% of its total display, shelf, rack, table, stand or floor area utilized for the sale and display of such items, including those items otherwise defined under Subsection A(1)(a) and (b) above. In establishing the percentages of utilization of any display, shelf, rack, table, stand or floor area

hereunder, the burden of proof hereof shall rest on the business which claims an exemption from said definition above, which proof must be established by clear and convincing evidence.

- B. **ADULT MOTION PICTURE THEATER** — An establishment with a capacity of five or more persons, where, for any form of consideration, films, motion pictures, videocassettes, slides or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1, for observation by patrons. For the purposes of this chapter, "substantial portion of the total presentation time" shall mean the presentation of films or shows described above for viewing on more than seven days within any fifty-six-consecutive-day period.
- C. **ADULT MOTION PICTURE ARCADE** — Any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically or mechanically controlled still or motion-picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, in which a substantial portion of the total presentation time of the images so displayed is devoted to the showing of materials which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1.
- D. **ADULT DRIVE-IN THEATER** — An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions, and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats, in which a substantial portion of the total presentation time being presented for observation by patrons is devoted to the showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1.
- E. **ADULT CABARET** — A nightclub, bar, restaurant, or similar establishment which, during a substantial portion of the total presentation time, features live performances which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1, and/or feature films, motion pictures, videocassettes, slides or other photographic reproductions, a substantial portion of the total presentation time of which is devoted to showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1.
- F. **ADULT THEATER** — A theater, concert hall, auditorium or similar establishment, either indoor or outdoor in nature, which, for any form of consideration, regularly features live performances, a substantial portion of the total presentation time of which is distinguished or characterized by an emphasis on activities which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1. For the purposes of this chapter, "substantial portion of the total presentation time" shall mean the presentation of films or shows described above for viewing on more than seven days within any fifty-six-consecutive-day period.
- G. **SEXUAL ENCOUNTER CENTER** — A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- (2) Activities between male and female persons and/or persons of the same sex when one or more persons is in the state of nudity; and
- (3) When the activities in Subsection G(1) and (2) above are characterized by an emphasis on activities which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1.

SHOPPING CENTER — One building or several attached or detached buildings on one lot in which two or more businesses are located and each business has a separate entrance and exit fronting a street or parking lot.

SHORELINE — The edge of water of all perennial streams and rivers, lakes and ponds not protected by the Shoreline Protection District.

SIDE OR BACK SETBACK — The setback from a property line other than a front setback.

SIDEWALK — Any public or private way or thoroughfare, paved or unpaved, intended for the use of pedestrians or foot traffic.

SIGN — Any device, fixture, placard, structure or attachment thereto that uses color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of any person or entity, or to communicate information of any kind to the public, whether commercial or noncommercial. Any portion of any awning, either freestanding or attached to a structure, decorated with any sign element, either attached or part thereof, shall be considered a wall sign.

SIGN HEIGHT — The measurement from the undisturbed ground directly under the sign to the top of the message area.

SIGN MAINTENANCE — Repainting; other surface renewal; change of message on the same surface; replacement of any sign surface, support framework or component with substantially similar construction material or component.

SIGN MESSAGE AREA — The total area used to display a sign's message, including all lettering, designs, symbols, and logos, together with but not including any support framework or bracing which is incidental to the sign and which is not designed to attract attention. Where the message area consists of letters, symbols, logos or devices affixed to the surface of a wall, building, awning or window, the message area shall be measured by a single, continuous, rectangular perimeter drawn to enclose the extreme limits of the sign elements. The message area of one side of a double-faced sign shall be regarded as the total message area of the sign. For double-faced signs, each face must be attached directly to the other.

SLOPE — The steepness of land surface. Slope is expressed in percent by dividing the change in elevation by a given horizontal distance and multiplying by 100%.

SMALL BUSINESS — Any business with less than 1,500 square feet of gross floor area.

SOIL TYPE — As defined by the Soil Survey of Carroll County, New Hampshire or as found by an on-site inspection by a soil scientist.

SPECIAL FLOOD HAZARD AREA — Any area having flood, mudslide and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-A30, AE, A99, AH, VO, V1-V30, VE, V, M or E.

SPECIAL HIGHWAY — The entire layout of the public road which travels along and within the Special Highway Corridor District; sometimes referred to as the "Conway Bypass."

START OF CONSTRUCTION — Includes substantial improvements, and means the date the building permit was issued, provided that the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

STATE HIGHWAY — Any Class I, II, III or IV road.

STORAGE SHED — A structure having no plumbing or heating installed, having a floor area of 125 square feet or less, being no more than 15 feet in height and used to store equipment of a residential nature owned by the occupant of the principal residential unit on the property.

STREET — A state highway or a highway, road, avenue, lane and/or any other way which exists for vehicular travel, exclusive of a driveway serving not more than two adjacent lots or sites. The word "street" shall include the entire right-of-way.

STRUCTURE — Anything constructed or erected, on or in the ground or in the water, or an attachment to something having a fixed location on the ground, including buildings, permanent or temporary; signs; carports; porches; and other building features, including stacks and antennas, but not including sidewalks; fences; driveways; septic systems; utility poles; boundary markers and field or garden walls or embankment retaining walls. For floodplain management purposes, a gas or liquid storage tank that is principally above ground is a structure.

STRUCTURE HEIGHT — The vertical distance from the lowest point of grade at the base of the structure to the highest point of the structure. The lowest point of grade shall be the lowest point at which the foundation is above the proposed or existing grade, whichever is less.

SUBSTANTIAL DAMAGE — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would be equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT —

- A. Any repair, reconstruction or improvement of a structure, the cumulative cost of which equals or exceeds 50% of the market value of the structure either before the improvement

or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. In the case of damage, the value of the structure prior to the damage occurring is:

- (1) The appraised value prior to the start of the initial repair or improvement; or
 - (2) The value of the structure prior to the damage occurring.
- B. For the purposes of the definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures that have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

TEMPORARY EVENT — An event whose occurrence is limited to not more than 14 days per calendar year.

TENT — Any structure with fabric or nonrigid walls or roof or both, which provides or is intended to provide temporary shelter.

THREE-DIMENSIONAL ENVELOPE — The volume and shape enclosed by the exterior dimensions of a building or other structure in plan and elevation views (length, width, height). All appurtenant structures, including but not limited to decks, greenhouses and bay windows, shall be included in the three-dimensional envelope. Any increase in volume or change in the shape shall be considered expansion.

TRADESMAN — A workman in a skilled trade, such as a carpenter, plumber, electrician, carpet layer, shoe repairman, furniture restorer or cabinetmaker.

TRANSIENT ACCOMMODATIONS — Living quarters which do not have a kitchen as defined in "residential unit." Such accommodations are not counted as residential units for density purposes, but rather are part of, or all of, a nonresidential use on the lot.

TRAVEL TRAILER — A vehicular portable structure, which may legally be moved on its own wheels, being a vehicle designed as a temporary dwelling for travel, recreation or vacation use.

TWO-DIMENSIONAL FOOTPRINT — The area and shape defined by the exterior dimensions of a building or other structure in plan view. All appurtenant structures, including but not limited to decks, greenhouses and bay windows, shall be included in the two-dimensional footprint. Any increase in area or change in the shape shall be considered an expansion.¹⁰⁰

UNIT — A measure of land use density. Each building, excluding accessory buildings, with any nonresidential use(s) shall constitute one unit. Each residential unit shall constitute one

100. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

unit. In cases where one structure facilitates both nonresidential and residential uses, the total number of units shall be equal to the sum of one for the structure plus one for each residential unit.

UTILITY POLE — A structure which is owned by a government agency or utility company and which is used to support lines and other equipment carrying electricity or communications.

VIOLATION — The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by Chapter 44 of the Code of Federal Regulations, § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5), is presumed to be in violation until such time as that documentation is provided.

WALL SIGN — A sign affixed to the wall of a building or to an awning, provided the sign does not extend more than 12 inches beyond the surface to which it is attached.

WATERCOURSE — All rivers, streams, brooks or other tributaries which flow year-round. These include all watercourses shown on the Map of Conway, New Hampshire, prepared by James W. Sewell Company, Old Town, Maine, dated 1964, as revised.

WETLAND BUFFER — See "buffer/wetland."

WETLANDS — Areas dominated by wetland characteristics; an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include, but are not limited to, swamps, marshes, bogs, and similar areas. (Ref. NH Code of Administrative Rules Envi 101.110)¹⁰¹

WHOLESALE AND LIGHT INDUSTRY — Any manufacturing, research, warehousing, storage or wholesale operation which is nonpolluting in terms of air, water and noise and which, in general, is not offensive to the character of the community.

WINDOW SIGN — A window, or portion thereof, on which a sign message is displayed, whether by permanent or temporary attachment, but exclusive of merchandise display.

WIRELESS COMMUNICATION FACILITY — Any tower, pole, antenna, accessway, or other structure intended for commercial use in connection with the transmission or reception of radio or television signals, or any other electromagnetic-spectrum-based transmission/reception.¹⁰²

101. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

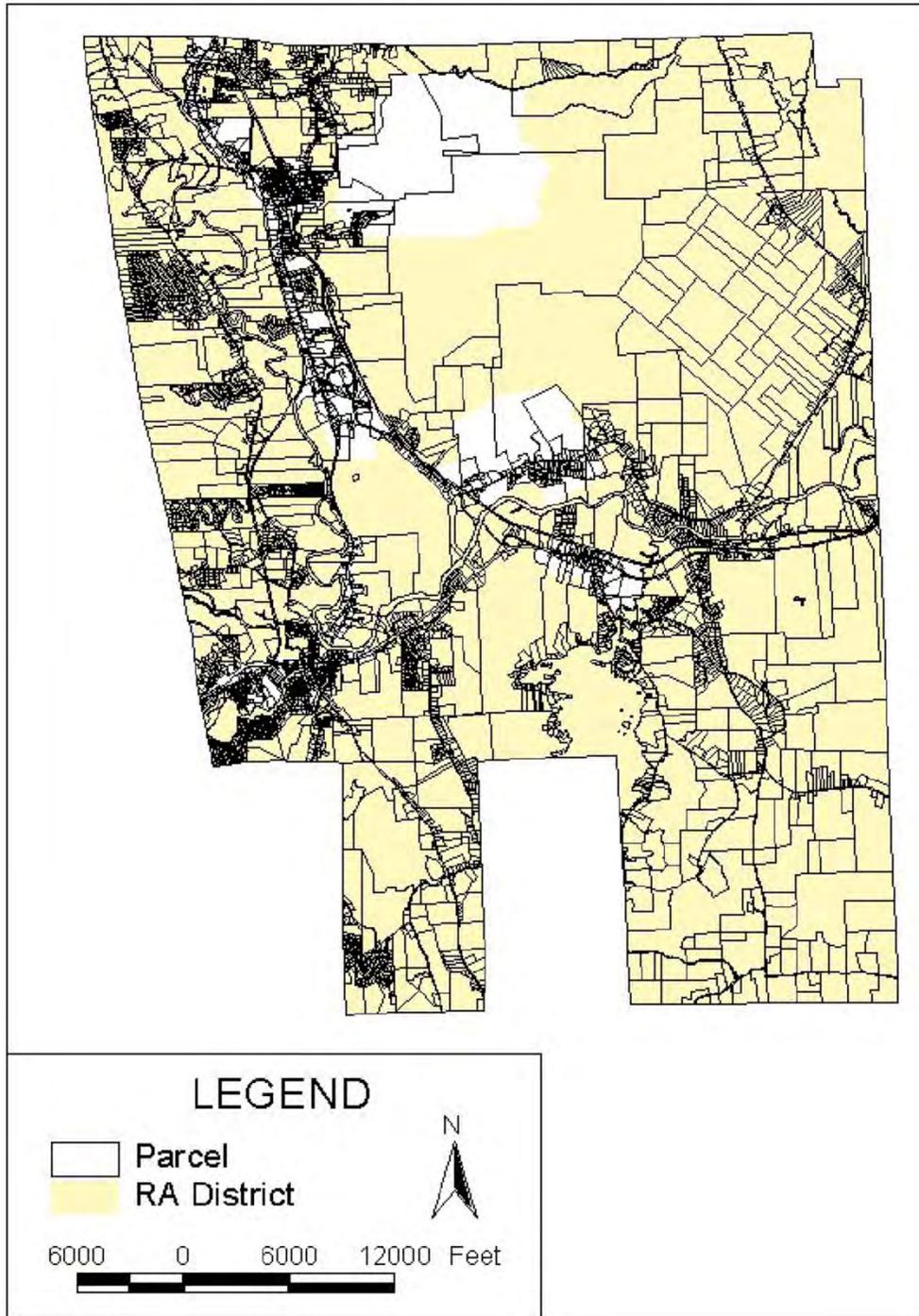
102. Editor's Note: Original § 147.16 of the Town Code, Permitted Use Table, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See the Permitted Use Table included as an attachment to this chapter.

ZONING

190 Attachment 1

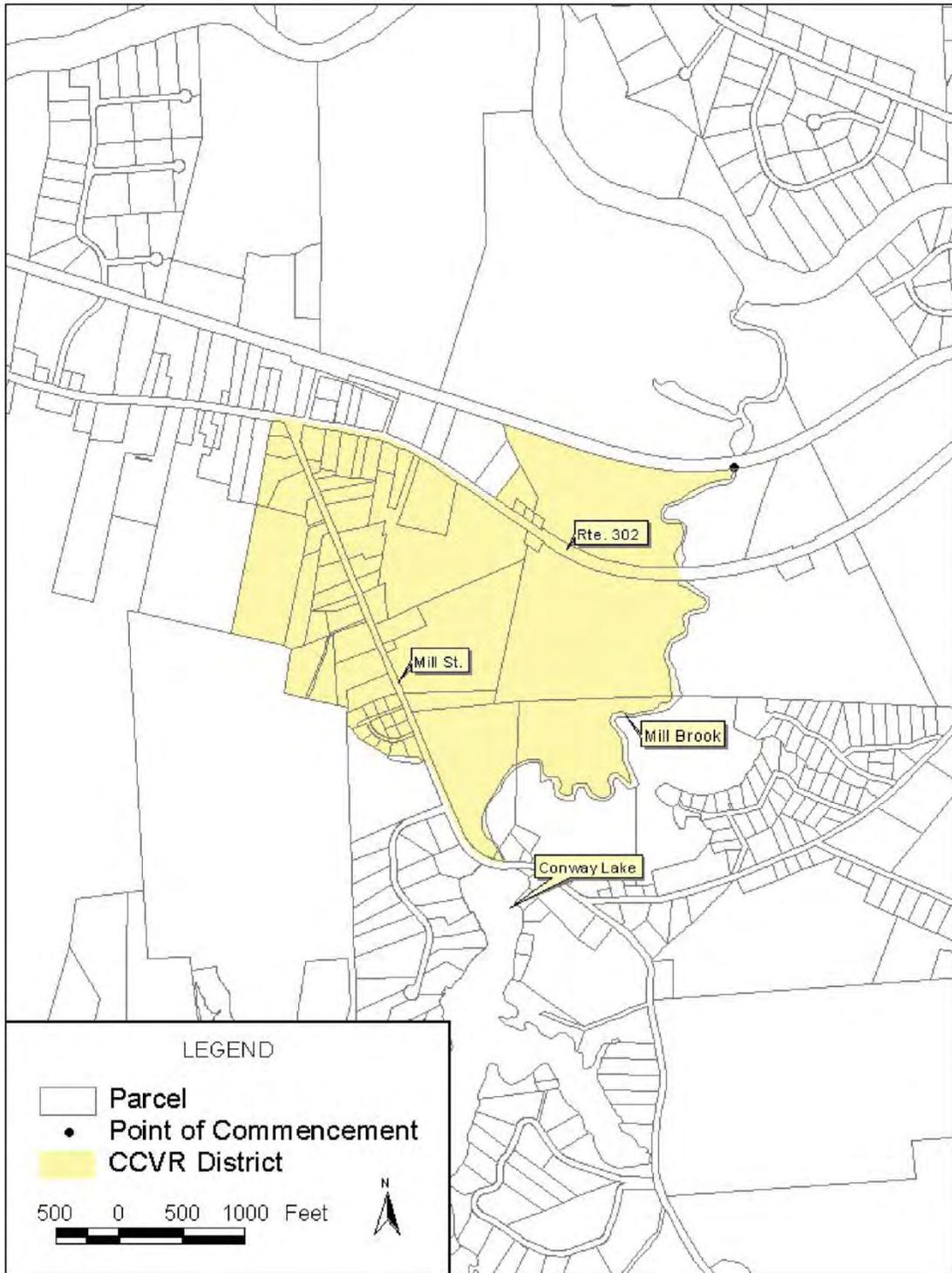
Town of Conway

RA District



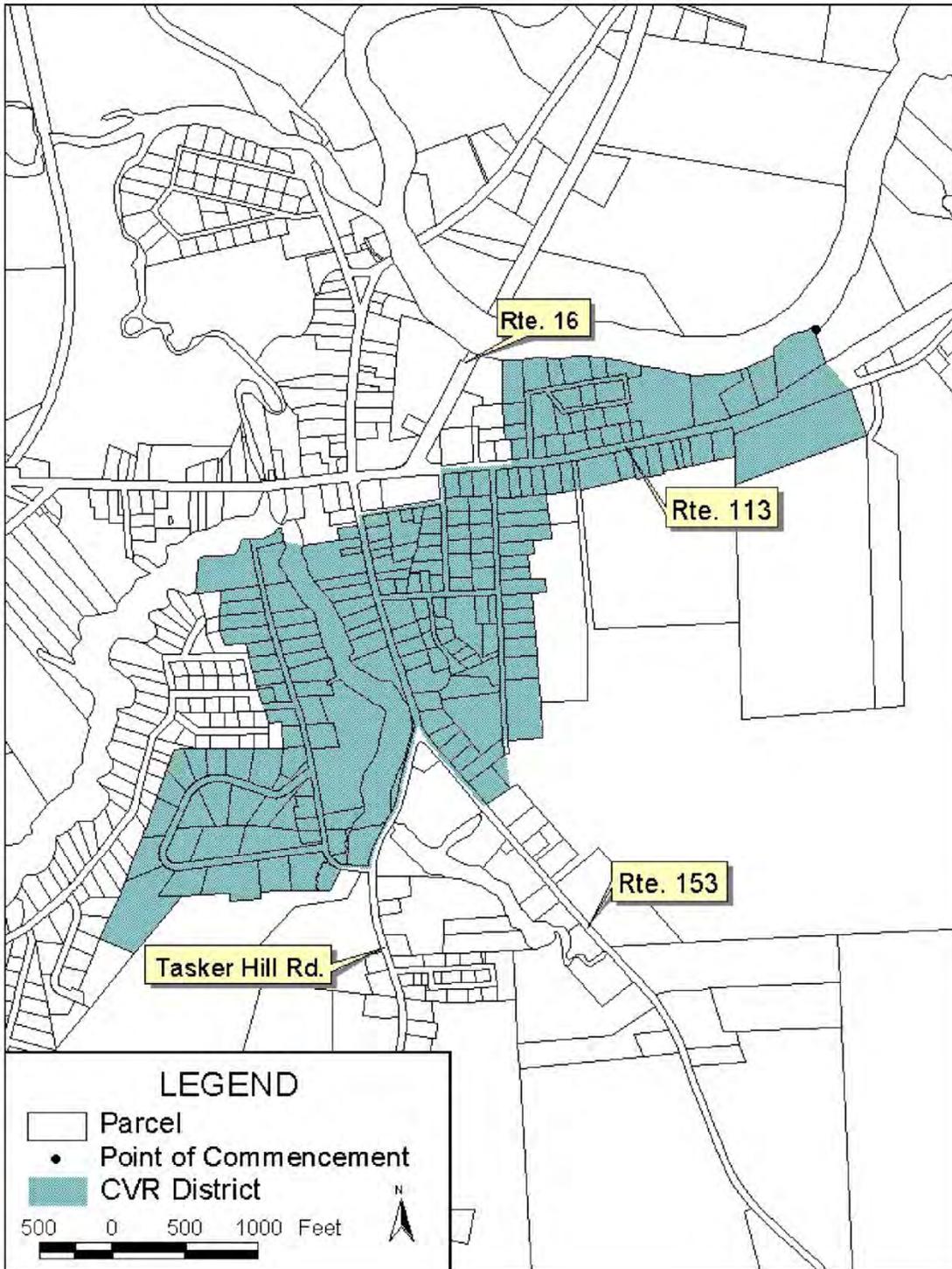
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CCVR District



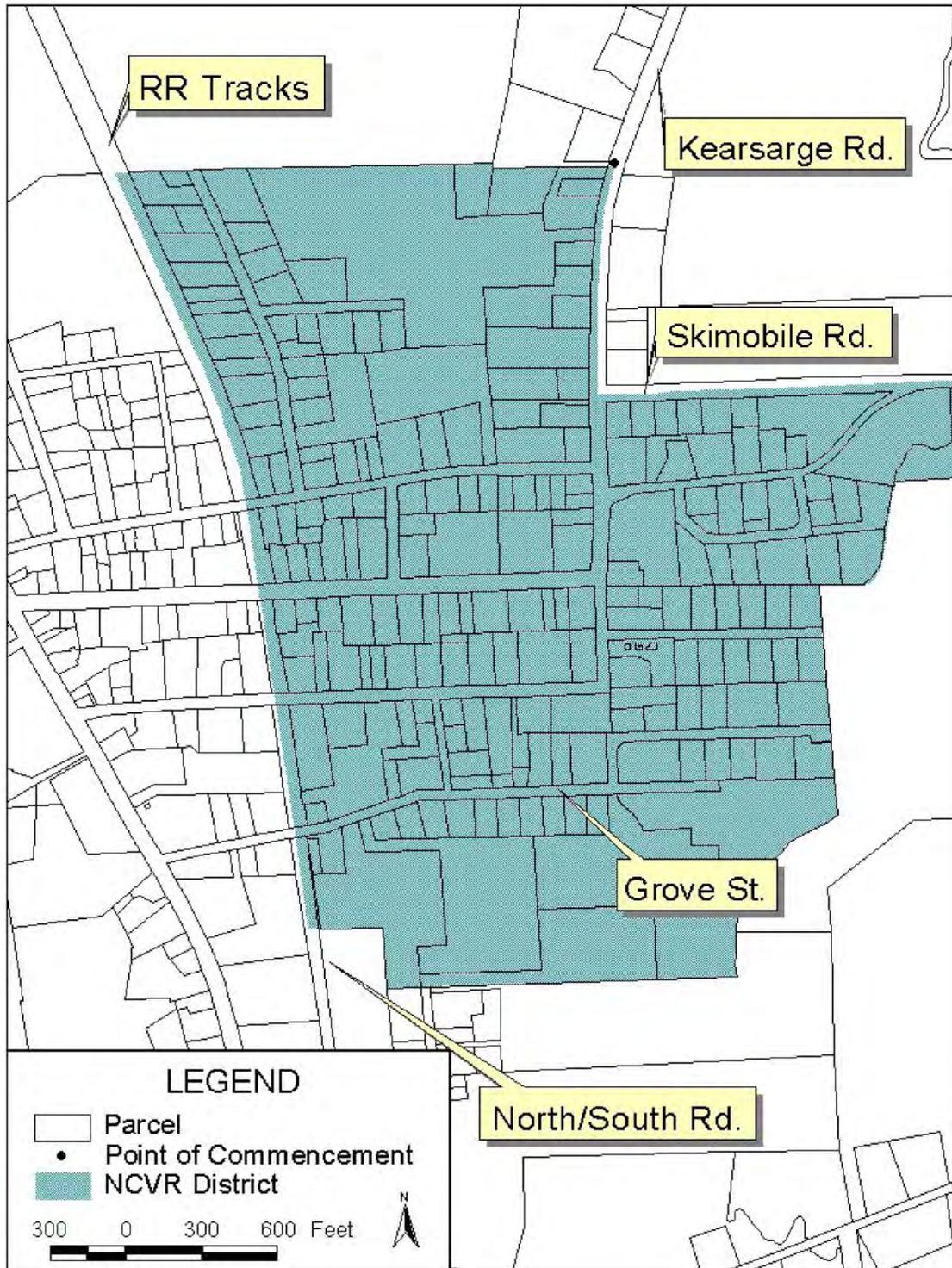
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CVR District



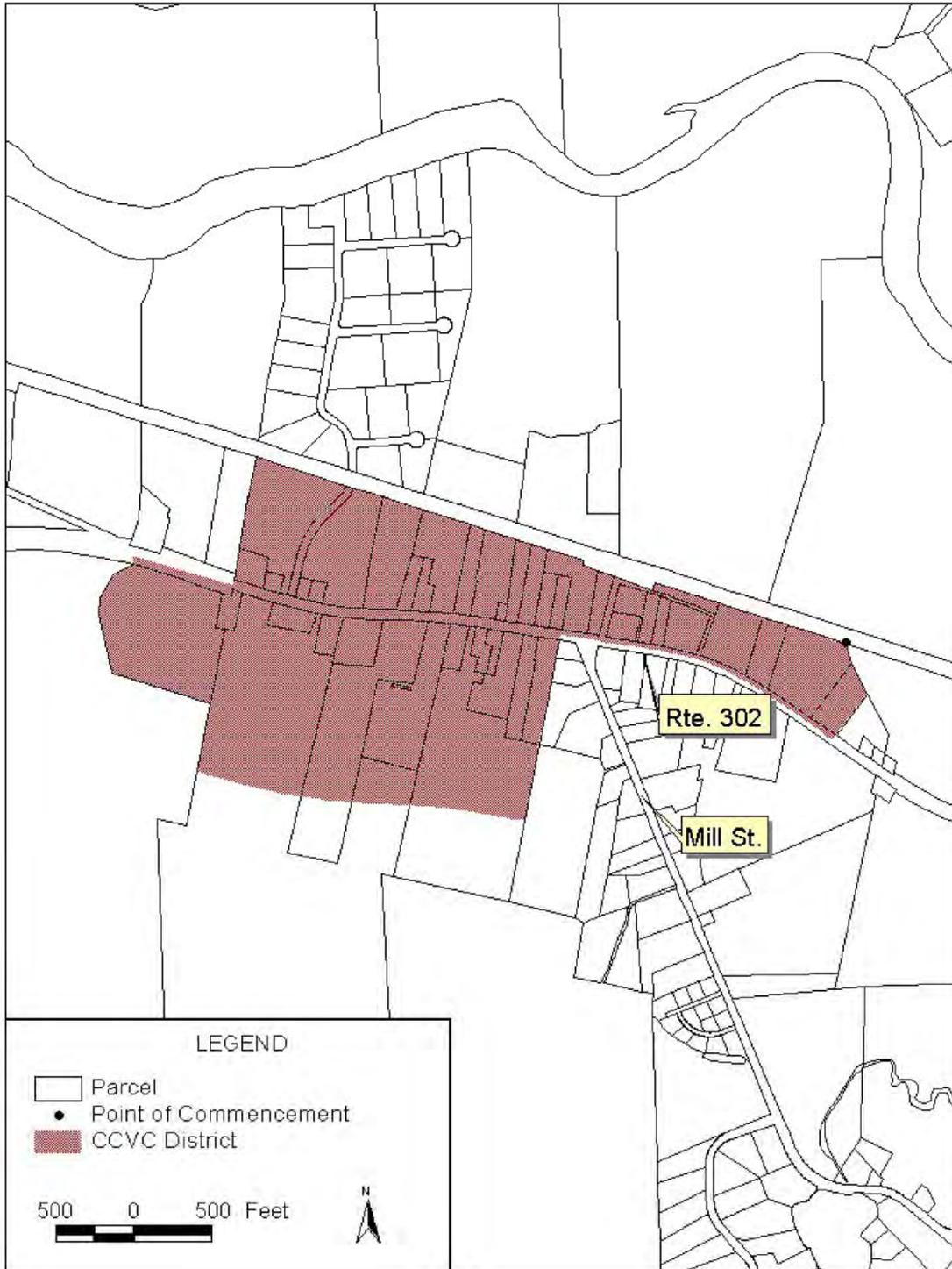
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NCVR District



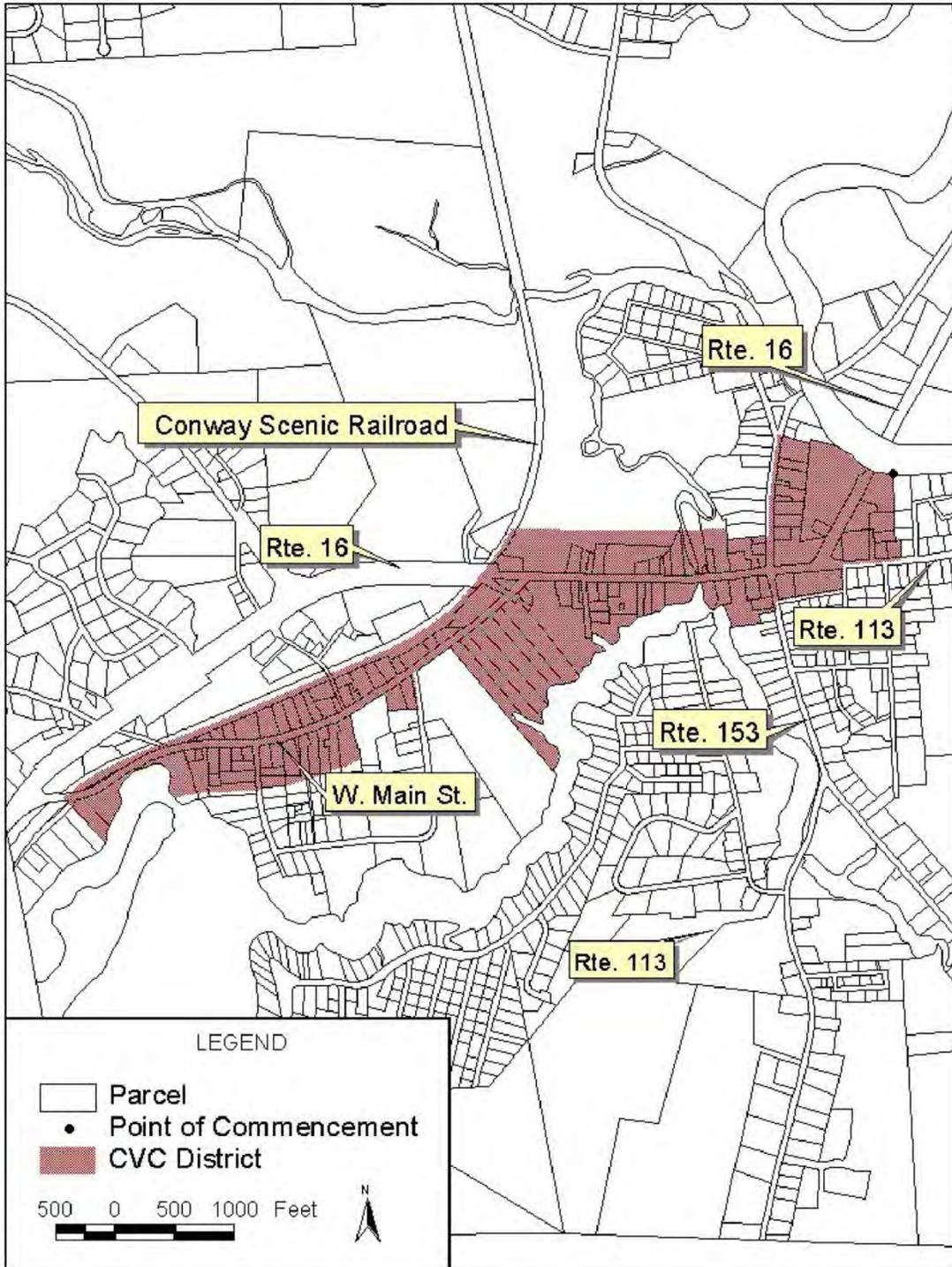
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CCVC District



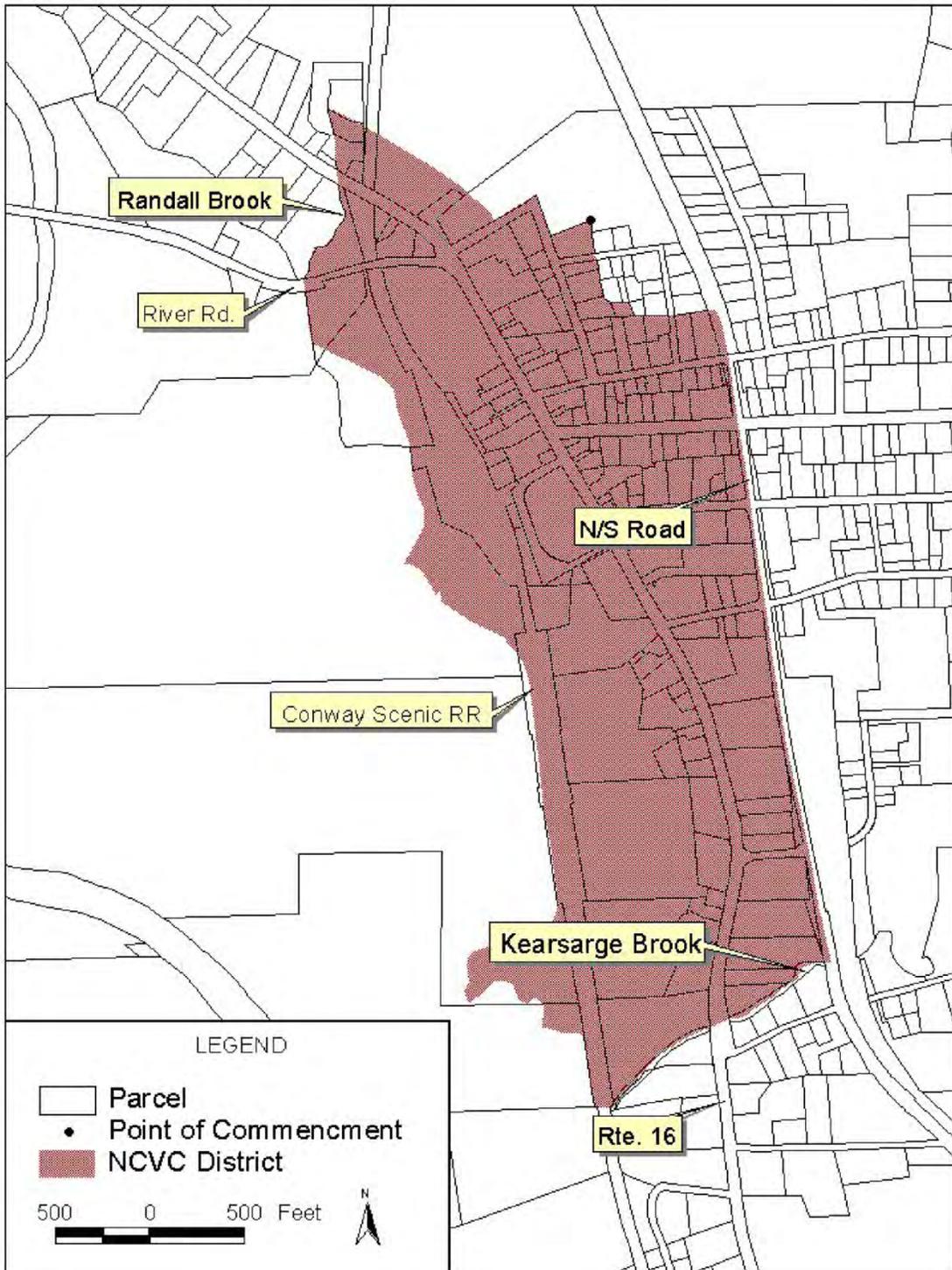
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CVC District



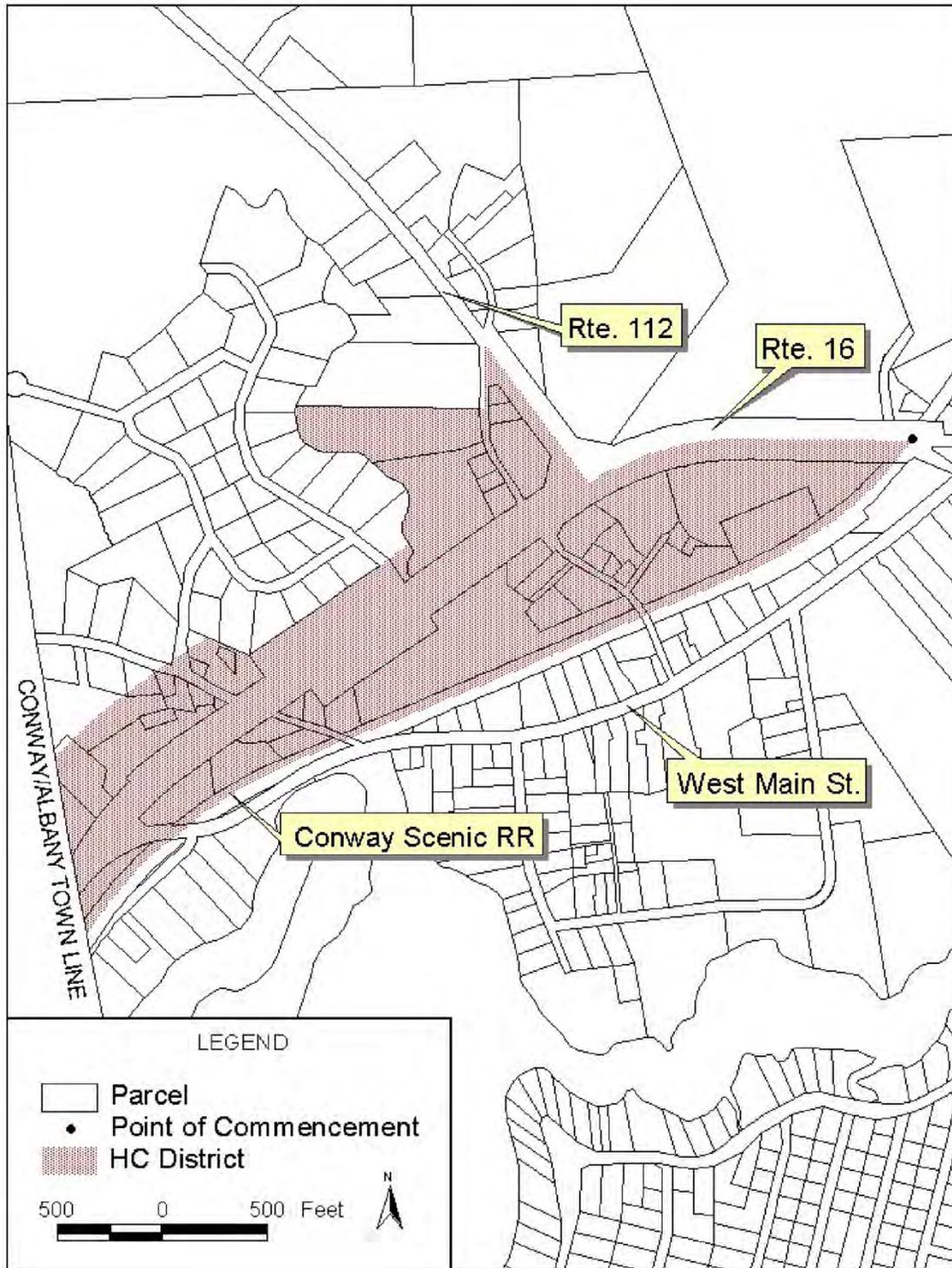
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NCVC District



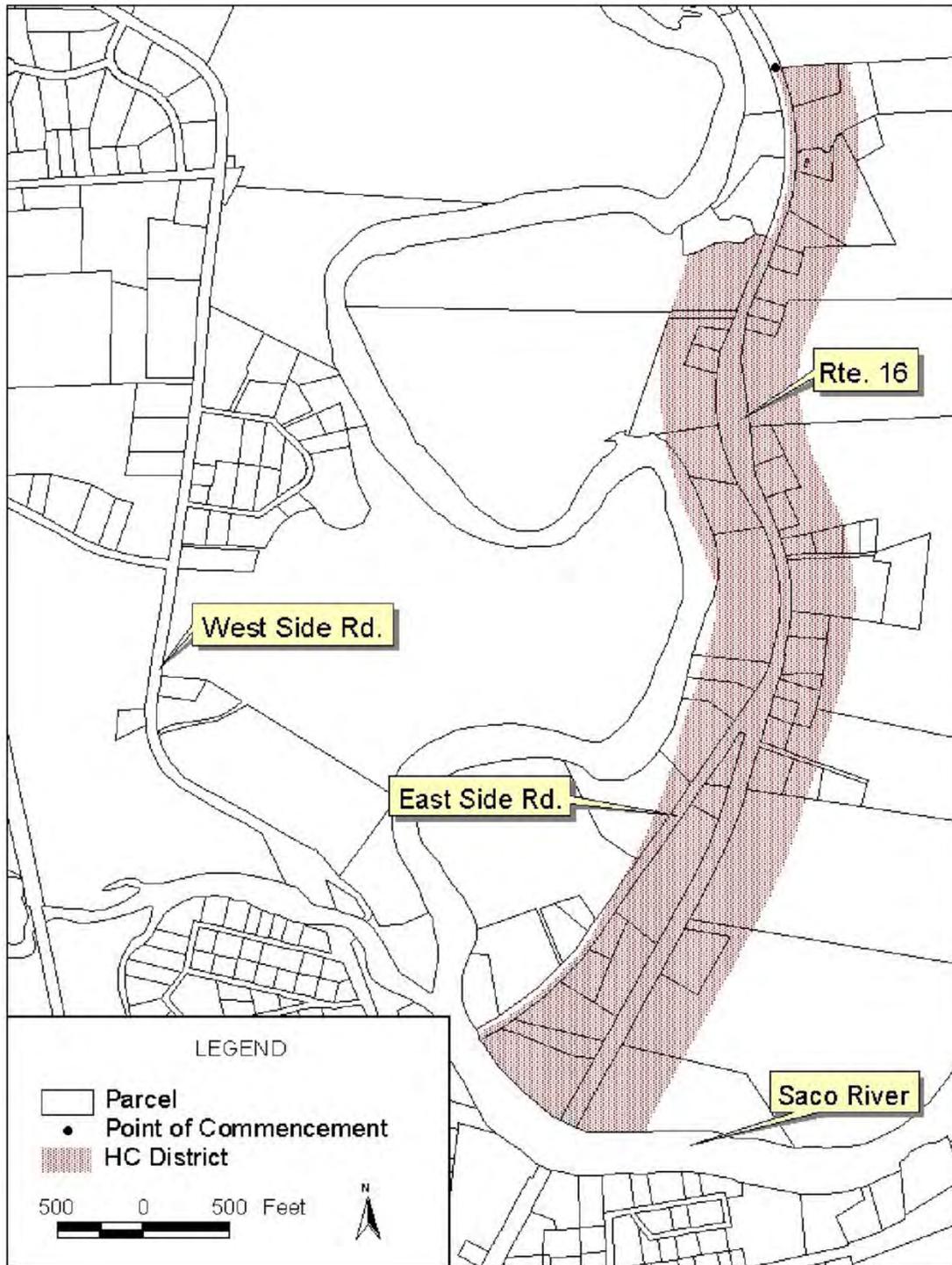
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HC District South of Saco River



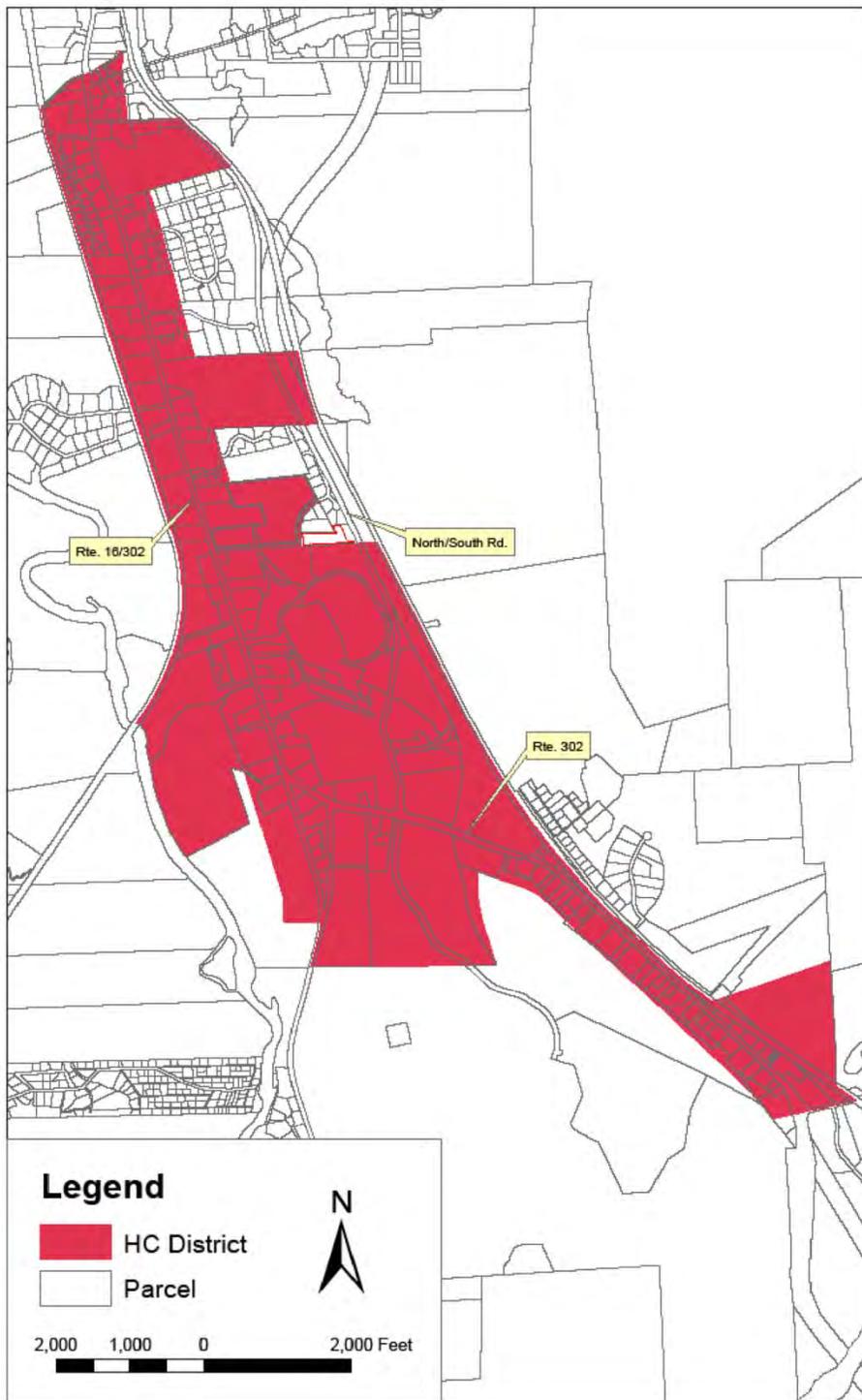
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HC District North of Saco River



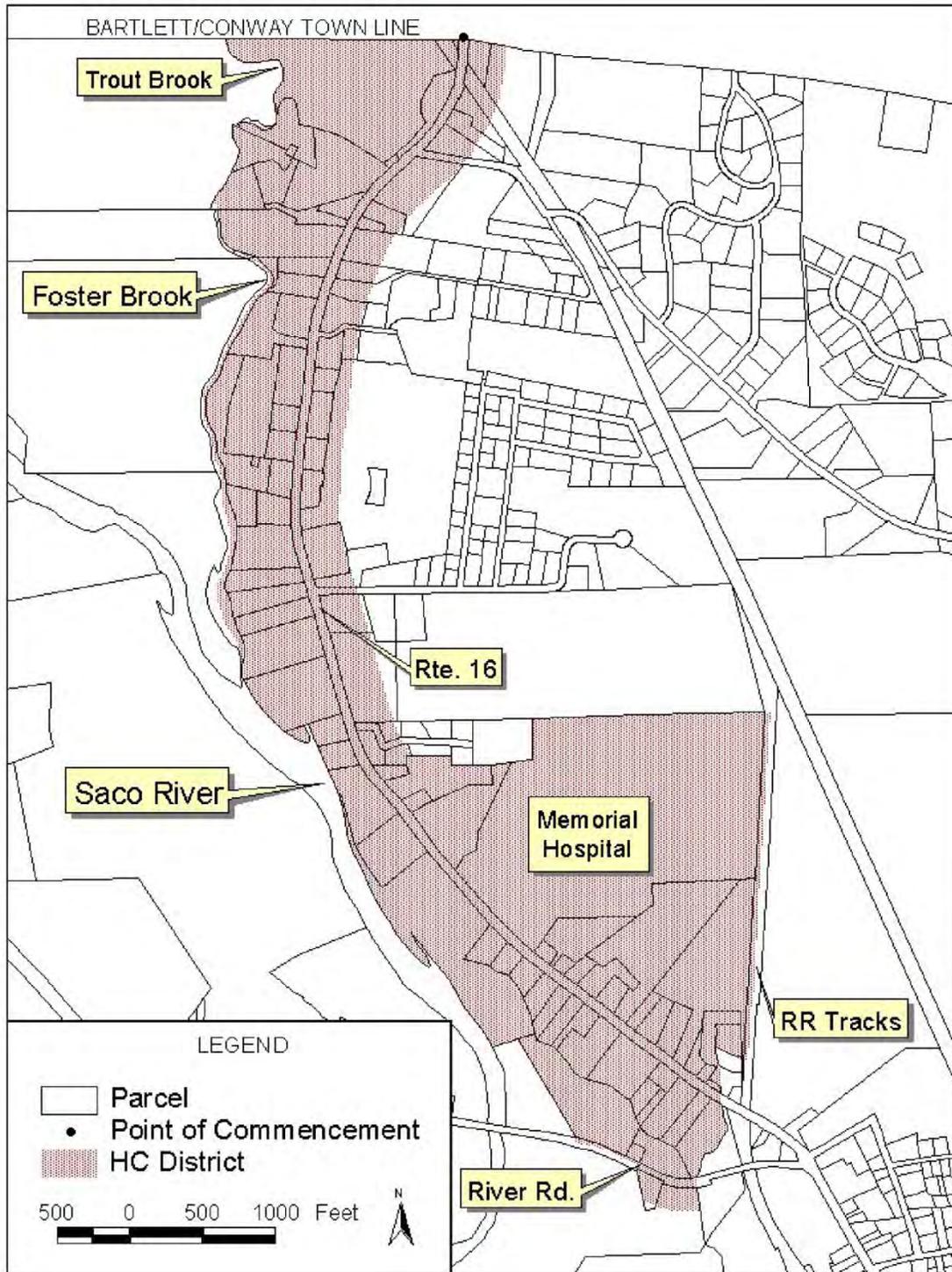
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HC District South of North Conway



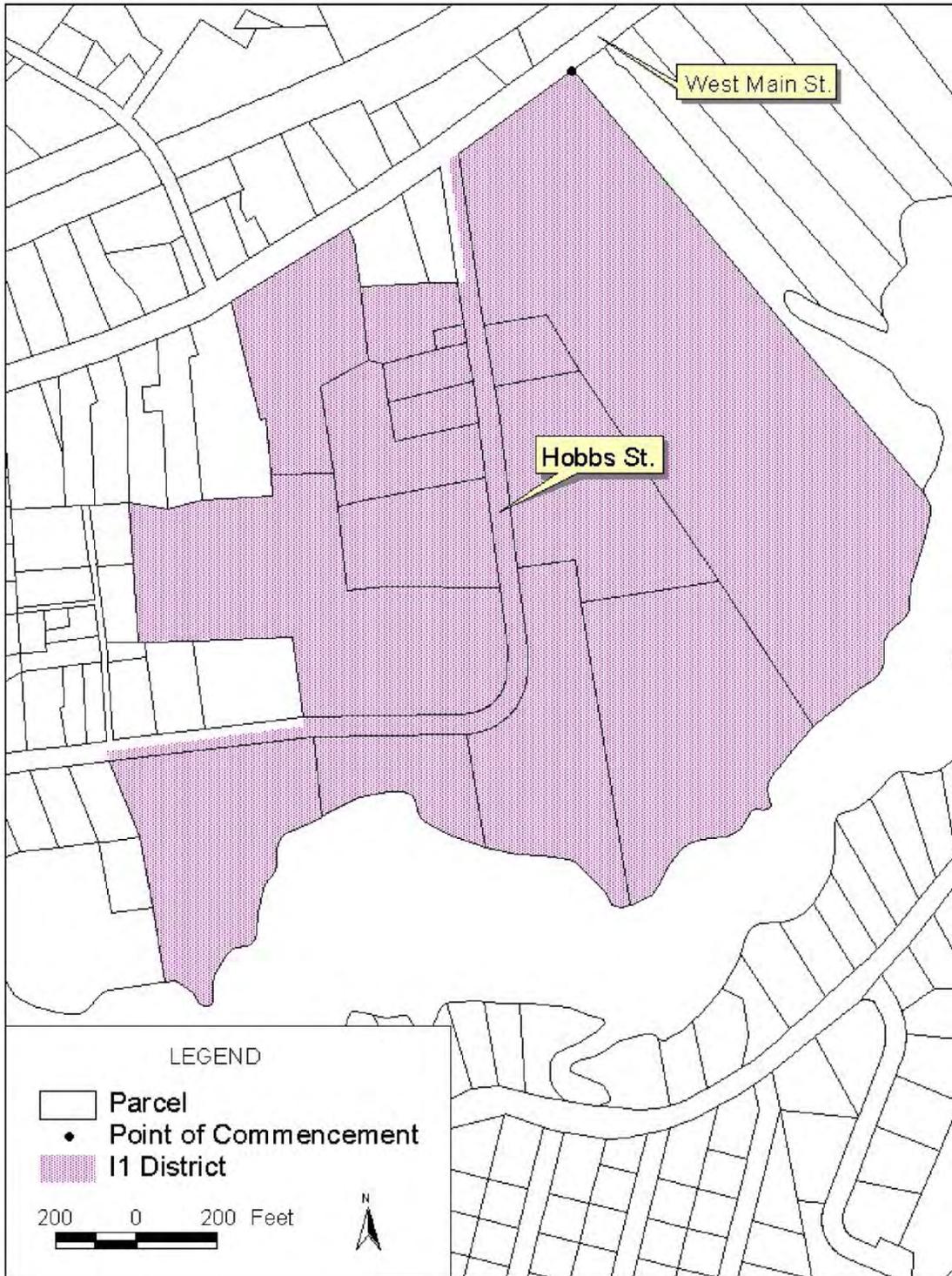
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HC District North of North Conway



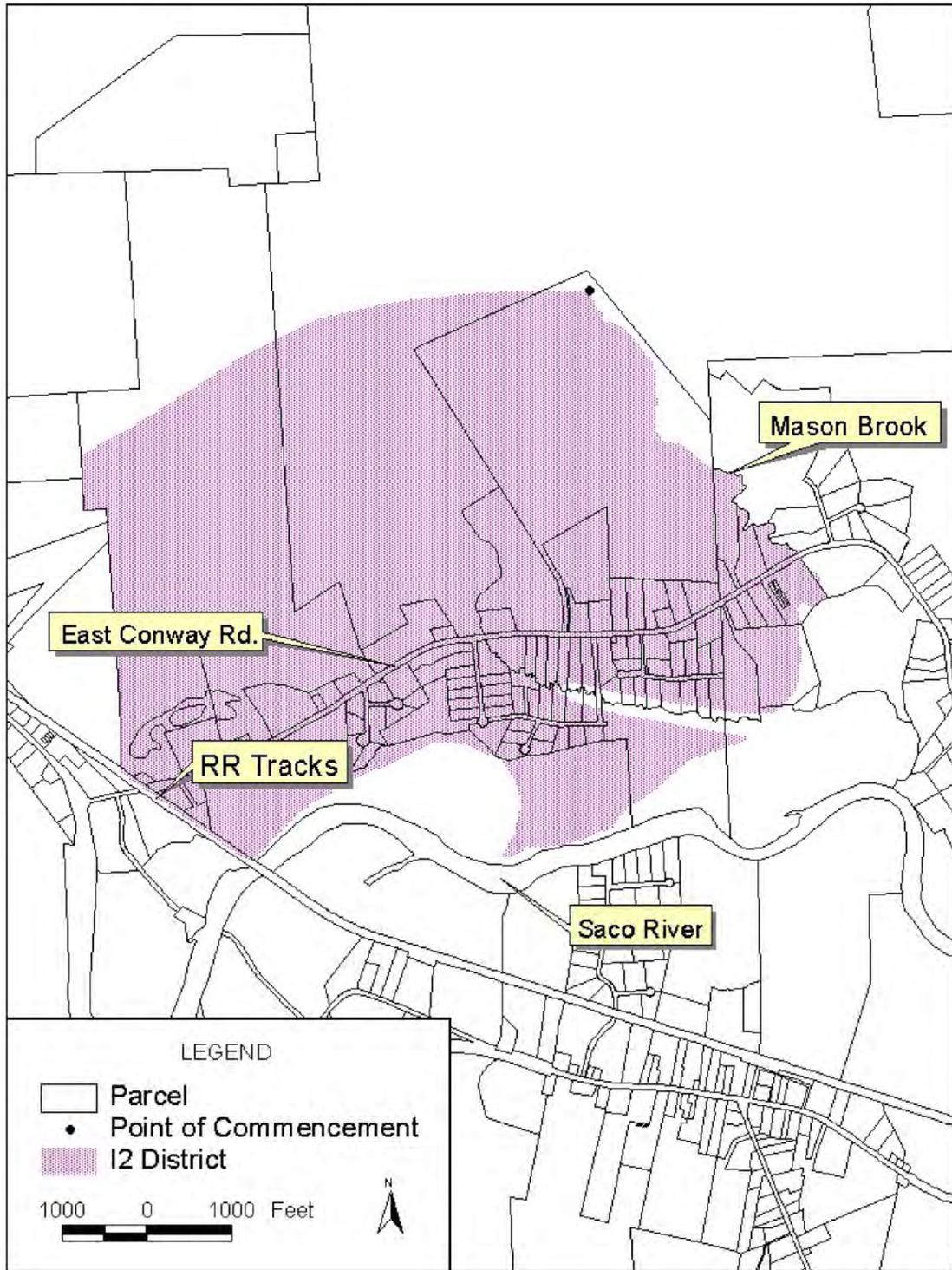
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I1 District



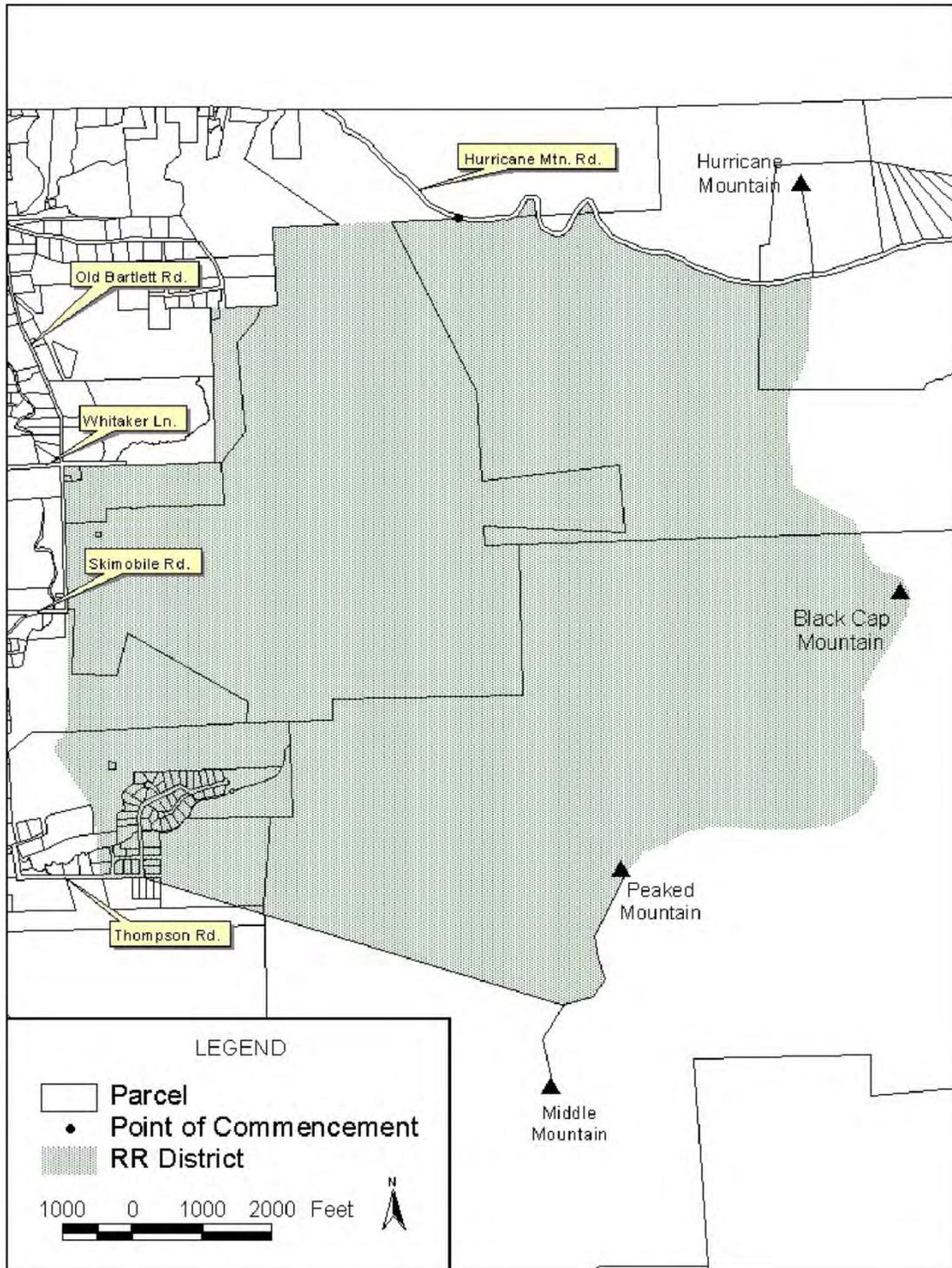
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I2 District



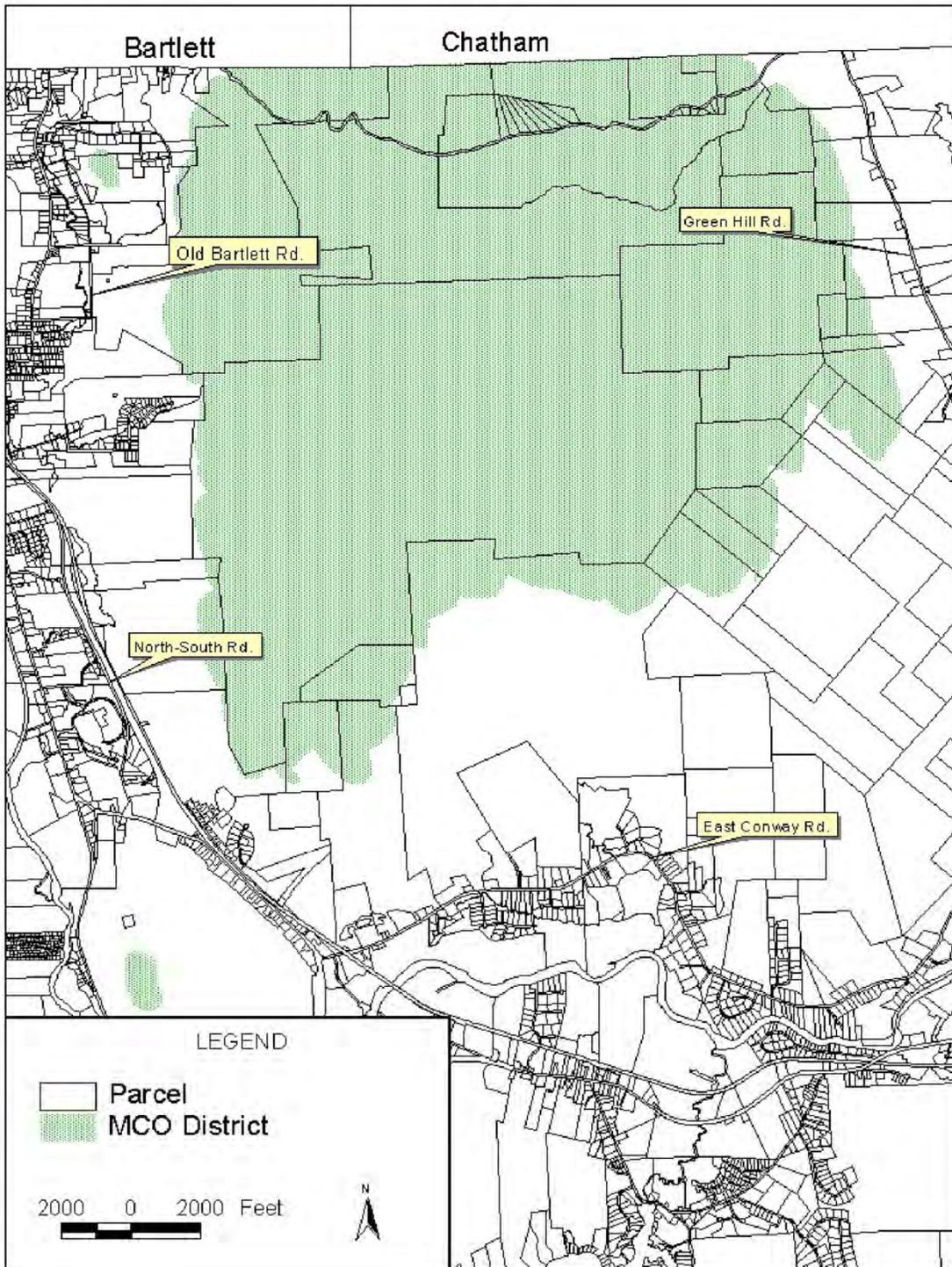
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RR District



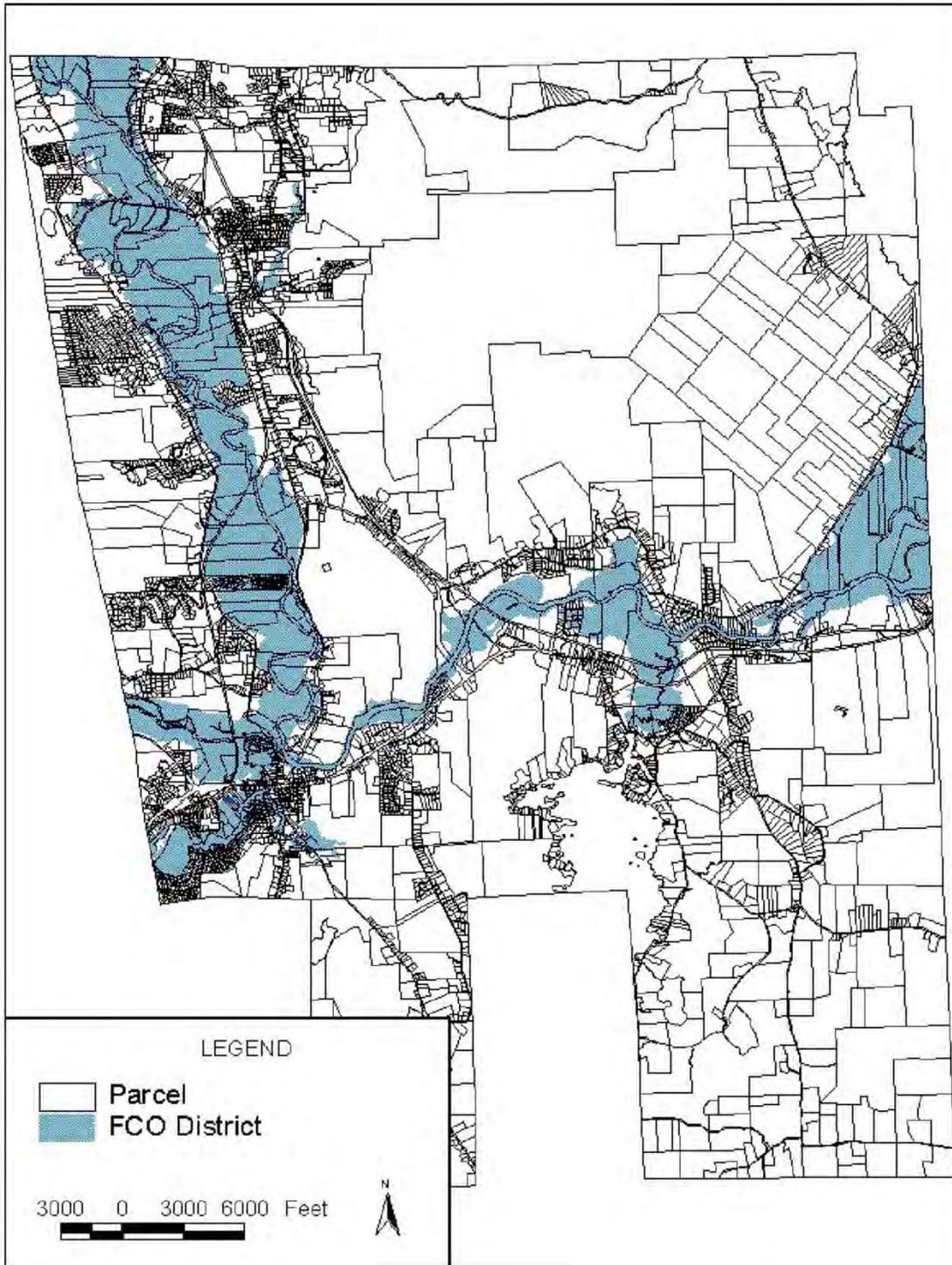
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MCO District



ZONING

FCO District



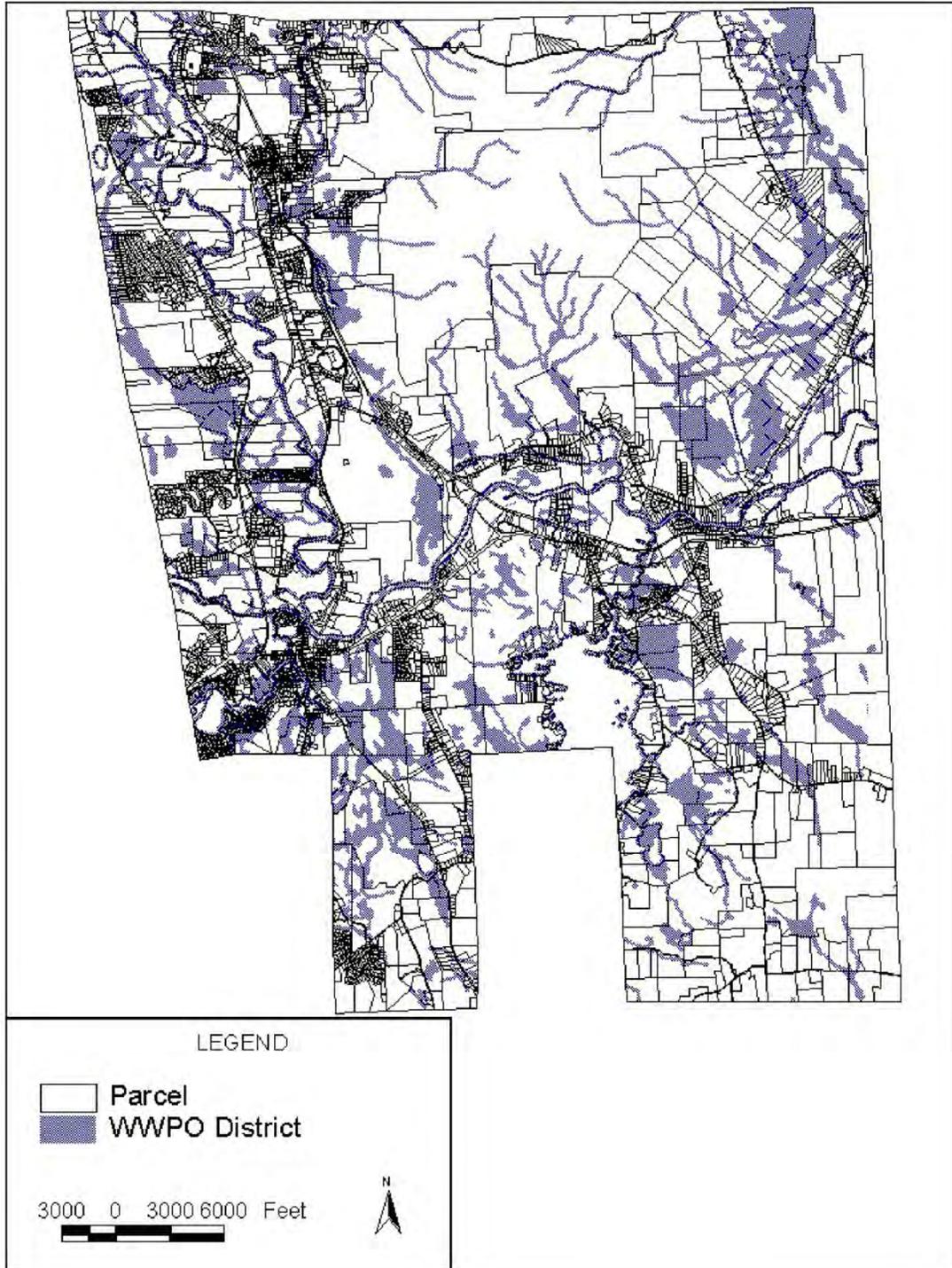
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SPO District



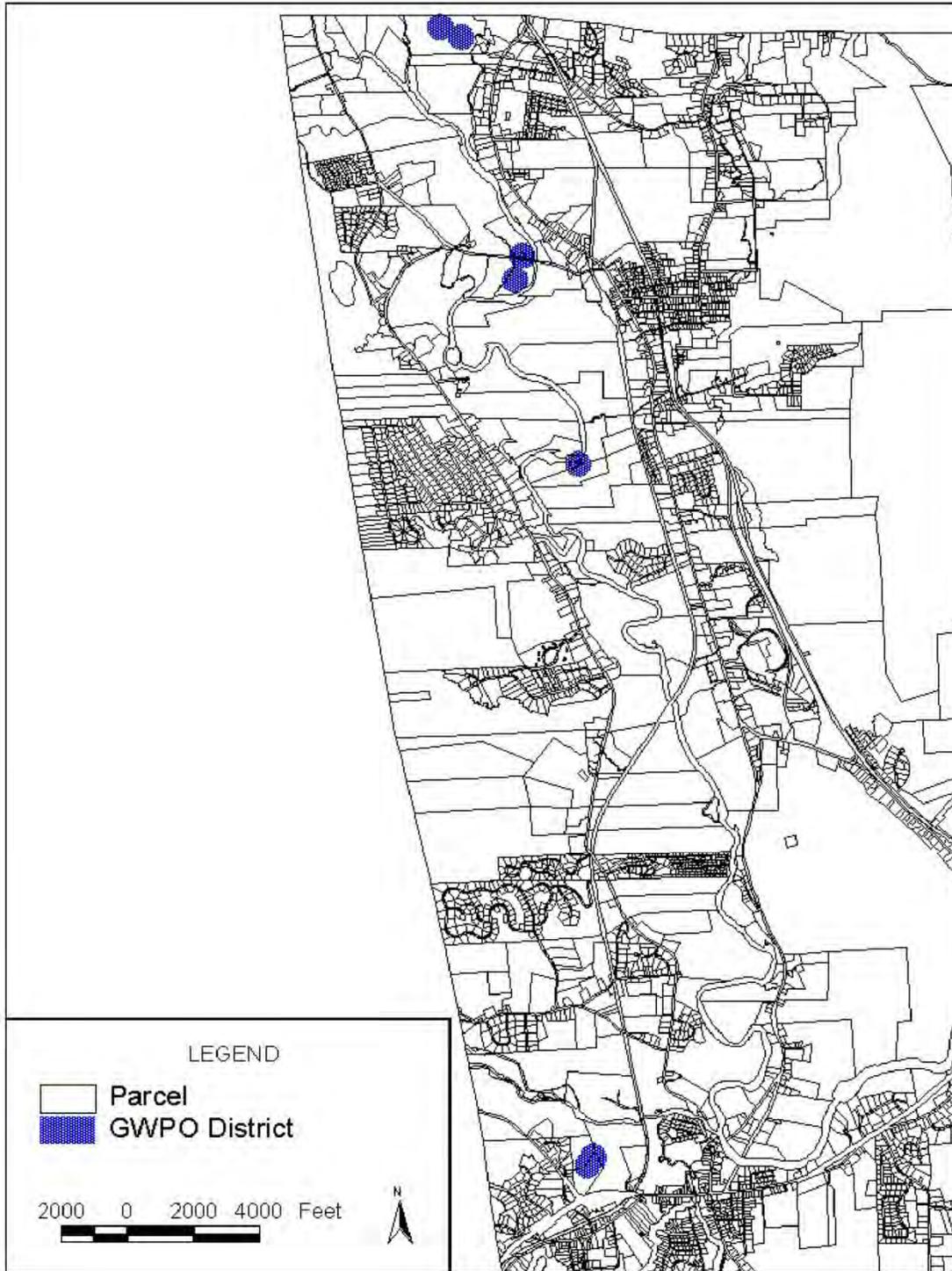
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WWPO District



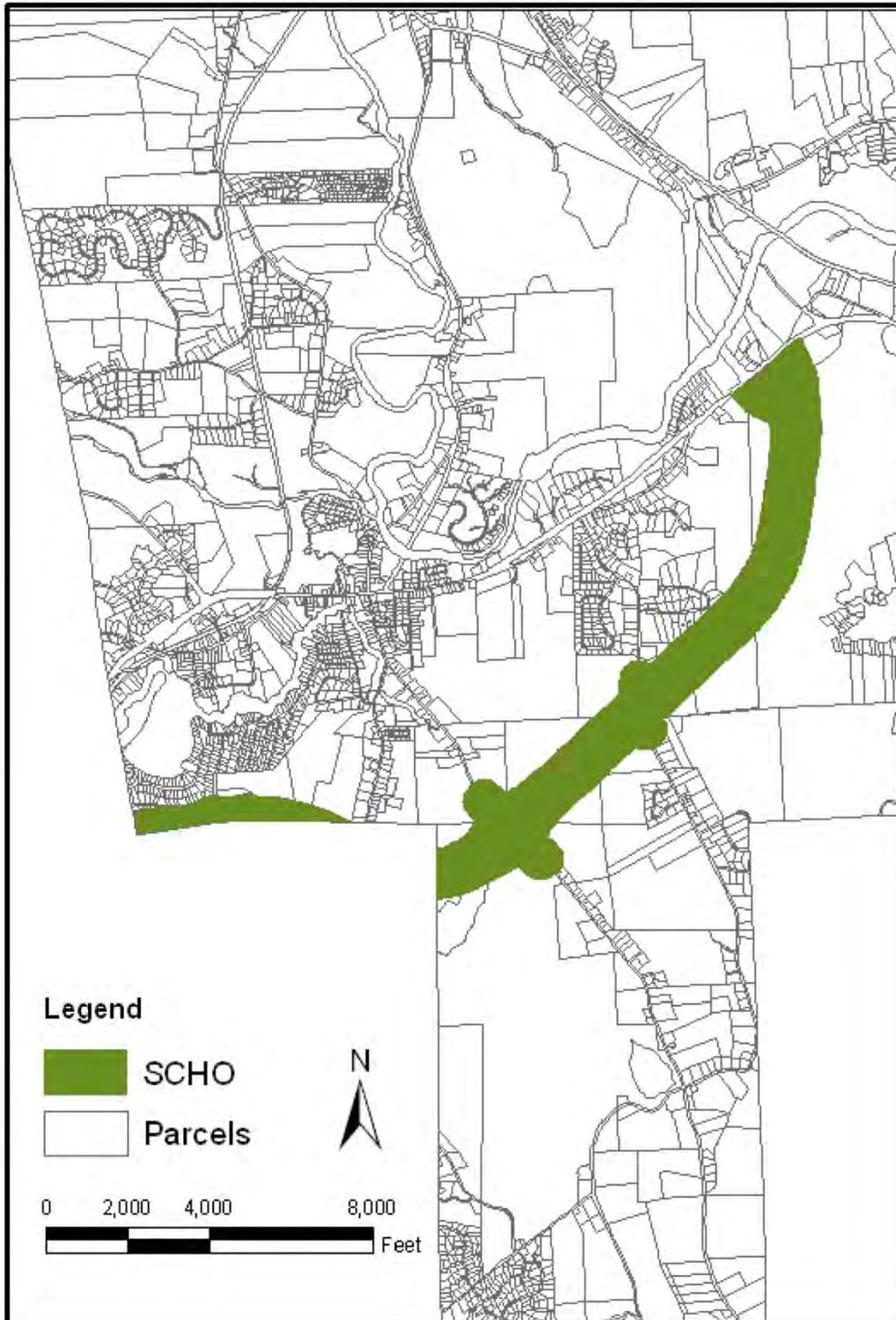
ZONING

GWPO District



ZONING

SHCO District



ZONING

190 Attachment 2

Town of Conway

Permitted Use Table
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

- KEY:**
- RA = Residential/Agricultural District
 - CCVR = Center Conway Village Residential District
 - CVR = Conway Village Residential District
 - NCVR = North Conway Village Residential District
 - CCVC = Center Conway Village Commercial District
 - CVC = Conway Village Commercial District
 - NCVC = North Conway Village Commercial District
 - HC = Highway Commercial District
 - RC = Regional Commercial District
 - I1 = Industrial 1 District
 - I2 = Industrial 2 District
 - RR = Recreational Resort District
 - MC = Mountain Conservation Overlay District
 - FC = Floodplain Conservation Overlay District
 - SP = Shoreline Protection Overlay District
 - WWP = Wetland and Watershed Overlay District
 - GWP = Groundwater Protection Overlay District
 - SHC = Special Highway Corridor Overlay District
 - P = Permitted Use
 - r = Restrictions Apply
 - u = Permitted if Permitted in Underlying District
 - N = Not Permitted
 - S = Special Exception Required

	District																	
	Residential						Commercial						Overlay District					
	RA	CCVR	CVR	NCVR	CCVC	CVC	NCVC	HC	RC	I1	I2	RR	MC	FC	SP	WWP	GWP	SHC
Accessory buildings	P	P	P	P	P	P	P	P		P	P	P	N	N	Pur	Pur/S	N	Pur
Accessory storage yards	P	P	P	P	P	P	P	P		P	P	P	N	S	Pur	Pur/S	N	Pur
Accessory uses, nonresidential	P	P	P	P	P	P	P	P		P	P	P	N	S	Pur	Pur/S	N	Pur
Accessory uses, residential	P	P	P	P	P	P	P	P		N	P	P	N	Pu	Pur	Pur/S	N	Pur
Agriculture																		
Buildings	P	P	P	P	P	P	P	P		P	P	P	N	S	Pur	Pur/S	N	Pur
Crops	P	P	P	P	P	P	P	P		P	P	P	N	Pu	Pur	Pur	N	Pur
Domestic animals	P	P	P	P	P	P	P	P		P	P	P	N	Pu	Pur	Pur/S	N	Pur
Domestic farm animals	P	P	N	N	P	Pr	Pr	Pr		N	P	P	N	Pu	Pur	Pur/S	N	Pur
Forestry and accessory uses	P	P	P	P	P	P	P	P		P	P	P	P	Pu	Pur	Pur	N	Pur
Farm and logging roads	P	P	P	P	P	P	P	P		P	P	P	P	Pu	Pur	Pur/S	N	Pur
Tree farming	P	P	P	P	P	P	P	P		P	P	P	P	Pur	Pur	N	Pur	

CONWAY CODE

	District																	
	Residential							Commercial										
	RA	CCVR	CVR	NCVR	CCVC	CVC	NCVC	HC	RC	II	I2	RR	MC	FC	SP	WWP	GWP	SHC
Excavation (noncommercial)	P	P	P	P	P	P	P	P		P	P	P	N	Pu	N	N	N	Pur
Athletic/Sports facilities	N	N	N	N	P	P	P	P		P	P	P	N	Pu	Pur/S	N	N	Pur
Athletic/Sports buildings	N	N	N	N	P	P	P	P		P	P	P	N	N	Pur/S	N	N	Pur
Automobile junkyards	N	N	N	N	N	N	N	N		P	N	N	N	N	Pur	N	N	N
Automotive painting	N	N	N	N	N	N	N	N		P	P	N	N	N	Pur	N	N	Pur
Automotive repair	N	N	N	N	N	N	N	N		P	P	N	N	N	Pur	N	N	Pur
Automotive service	N	N	N	N	N	N	N	N		P	P	N	N	N	Pur	N	N	Pur
Beaches	P	P	P	P	P	P	P	P		P	P	P	N	Pu	Pur/S	N	N	Pur
Boardinghouses	N	N	N	N	P	P	P	P		N	N	N	N	N	Pur/S	N	N	Pur
Boardinghouses, owner-occupied	P	P	P	P	P	P	P	P		N	N	P	N	N	Pur/S	N	N	Pur
Boat landings and access areas	P	P	P	P	P	P	P	P		P	P	P	Pu	S	Pur/S	N	N	Pur
Bulk chemical storage facilities	N	N	N	N	N	N	N	N		N	P	N	N	N	N	N	N	N
Business development parks	S	S	N	N	P	P	P	P		P	P	S	N	N	Pur/S	N	N	Pur
Caretaker's residences	P	P	P	P	P	P	P	P		P	P	P	N	N	Pur/S	N	N	Pur
Charitable fundraising events	S	S	N	N	P	P	P	P		P	P	S	N	S	Pur/S	N	N	Pur
Churches	P	P	N	N	P	P	P	P		P	P	P	N	N	Pur/S	N	N	Pur
Commercial amusements, indoor	N	N	N	N	Pr	Pr	Pr	Pr		Pr	Pr	N	N	N	Pur/S	N	N	Pur
Commercial amusements, outdoor	N	N	N	N	N	N	N	N		N	N	N	N	N	Pur/S	N	N	Pur
Commercial campgrounds	N	N	N	N	P	P	P	P		N	N	N	N	N	Pur/S	N	N	Pur
Commercial golf facilities	S	S	N	N	P	P	P	P		P	P	S	N	S	Pur/S	N	N	Pur
Conservation areas	P	P	P	P	P	P	P	P		P	P	P	Pu	P	Pur	Pu	Pu	Pur
Convention/Meeting facilities	N	N	N	N	P	P	P	P		P	P	P	N	N	Pur/S	N	N	Pur
Day-cares (1-15 people)	S	S	S	S	P	P	P	P		P	P	S	N	N	Pur/S	N	N	Pur
Day-cares (more than 15 people)	N	N	N	N	P	P	P	P		P	P	N	N	N	Pur/S	N	N	Pur
Docks (seasonal)	P	P	P	P	P	P	P	P		P	P	P	N	S	Pur/S	N	N	Pur
Excavations, commercial	Pr	Pr	N	N	Pr	N	N	Pr		Pr	Pr	N	N	N	N	N	N	N
Farm and nursery stands	P	P	N	N	P	P	P	P		P	P	P	N	S	Pur/S	N	N	Pur

ZONING

	District																	
	Residential							Commercial										
	RA	CCVR	CVR	NCVR	CCVC	CVC	NCVC	HC	RC	II	I2	RR	MC	FC	SP	WWP	GWP	SHC
Fill	P	P	P	P	P	P	P	P		P	P	P	N	S	Pur	Pur/S	N	Pur
Hazardous waste facilities	N	N	N	N	N	N	N	N		N	P	N	N	N	N	N	N	N
Heliports	S	S	N	N	N	N	N	N		N	N	S	N	Pur/S	N	N	N	N
Home occupation																		
Antique shops	Pr	Pr	Pr	Pr	Pr	Pr	Pr	Pr		Pr	Pr	Pr	N	N	Pur	Pur/S	N	Pur
Artist's/Musician's studios	Pr	Pr	Pr	Pr	Pr	Pr	Pr	Pr		Pr	Pr	Pr	N	N	Pur	Pur/S	N	Pur
Beautician/Barber	Pr	Pr	Pr	Pr	Pr	Pr	Pr	Pr		Pr	Pr	Pr	N	N	Pur	Pur/S	N	Pur
Custom clothing/linens	Pr	Pr	Pr	Pr	Pr	Pr	Pr	Pr		Pr	Pr	Pr	N	N	Pur	Pur/S	N	Pur
Day-cares (6 or fewer people)	Pr	Pr	Pr	Pr	Pr	Pr	Pr	Pr		Pr	Pr	Pr	N	N	Pur	Pur/S	N	Pur
Home offices	Pr	Pr	Pr	Pr	Pr	Pr	Pr	Pr		Pr	Pr	Pr	N	N	Pur	Pur/S	N	Pur
Tradesman/Craftsman workrooms	Pr	Pr	Pr	Pr	Pr	Pr	Pr	Pr		Pr	Pr	Pr	N	N	Pur	Pur/S	N	Pur
Hospitals	P	P	N	N	P	P	P	P		P	P	P	N	N	Pur	Pur/S	N	Pur
Hotels	N	N	N	N	P	P	P	P		N	N	N	N	N	Pur	Pur/S	N	Pur
Kennels	S	S	N	N	P	P	P	P		P	P	S	N	N	Pur	Pur/S	N	Pur
Lodging houses	N	N	N	N	P	P	P	P		N	N	N	N	N	Pur	Pur/S	N	Pur
Lodging houses, owner-occupied	P	P	P	P	P	P	P	P		N	N	P	N	N	Pur	Pur/S	N	Pur
Motels	N	N	N	N	P	P	P	P		N	N	N	N	N	Pur	Pur/S	N	Pur
Municipal services	P	P	P	P	P	P	P	P		P	P	P	N	S	Pur	Pur/S	Pu	Pur
Municipal facilities	P	P	P	P	P	P	P	P		P	P	P	N	S	Pur	Pur/S	Pu	Pur
Nursing homes	S	S	N	N	P	P	P	P		N	N	S	N	N	Pur	Pur/S	N	Pur
Offices	N	N	N	N	P	P	P	P		P	P	N	N	N	Pur	Pur/S	N	Pur
Post offices	S	S	S	S	P	P	P	P		P	P	S	N	N	Pur	Pur/S	N	Pur
Private educational facilities	S	S	S	S	P	P	P	P		P	P	S	N	N	Pur	Pur/S	N	Pur
Processing excavated materials	Pr	Pr	N	N	Pr	N	N	N		Pr	Pr	N	N	N	N	N	N	Pur
Railroads, streets, bridges and driveways	P	P	P	P	P	P	P	P		P	P	P	N	S	Pur	Pur/S	N	Pur
Recreation trails	P	P	P	P	P	P	P	P		P	P	P	Pu	P	Pur	Pur	N	Pur

CONWAY CODE

	District																	
	Residential							Commercial										
	RA	CCVR	CVR	NCVR	CCVC	CVC	NCVC	HC	RC	II	I2	RR	MC	FC	SP	WWP	GWP	SHC
Residential																		
Single-family	P	P	P	P	P	P	P	P				N	N	S	Pur	Pur/S	N	Pur
Two-family (duplex)	P	P	P	P	P	P	P	P				N	N	S	Pur	Pur/S	N	Pur
Multifamily (> 2 units)	P	P	P	P	P	P	P	P				N	N	S	Pur	Pur/S	N	Pur
Accessory apartments	S	S	S	S	S	S	S	S				N	N	S	Pur	Pur/S	N	Pur
Mobile homes	P	N	P	P	N	P	P	P				N	N	S	Pur	Pur/S	N	Pur
Mobile homes, accessory	S	N	N	N	N	S	S	S				N	N	S	Pur	Pur/S	N	Pur
Mobile homes, temporary	Pr	N	Pr	Pr	N	Pr	Pr	Pr				N	N	S	Pur	Pur/S	N	Pur
Mobile home parks	N	N	N	N	N	P	P	P				N	N	S	Pur	Pur/S	N	Pur
Resort hotels	S	S	N	N	P	P	P	P				N	N	S	Pur	Pur/S	N	Pur
Restaurants	N	N	N	N	P	P	P	P				N	N	S	Pur	Pur/S	N	Pur
Retail																		
≤ 3,000 square feet	N	N	N	N	P	P	P	P				P	N	N	Pur	Pur/S	N	Pur
3,000 - 5,000 square feet	N	N	N	N	N	P	P	P				P	N	N	Pur	Pur/S	N	Pur
5,000 - 50,000 square feet	N	N	N	N	N	P	P	P				P	N	N	Pur	Pur/S	N	Pur
> 50,000 square feet	N	N	N	N	N	P	P	P				P	N	N	Pur	Pur/S	N	Pur
Rooming houses	N	N	N	N	P	P	P	P				N	N	N	Pur	Pur/S	N	Pur
Rooming houses, owner-occupied	P	P	P	P	P	P	P	P				N	N	N	Pur	Pur/S	N	Pur
Salt storage facilities	N	N	N	N	N	N	N	N				N	N	N	N	N	N	N
Sexually oriented businesses	N	N	N	N	Pr	Pr	Pr	Pr				N	N	N	Pur	Pur/S	N	Pur
Signs	Pr	Pr	Pr	Pr	Pr	Pr	Pr	Pr				Pr	Pr	S	Pur	Pur/S	N	Pur
Snow dumps	N	N	N	N	N	N	N	N				N	N	N	N	N	N	N
Solid waste facilities	N	N	N	N	N	N	N	N				N	N	N	N	N	N	N
Bulk storage tanks, hazardous materials	N	N	N	N	N	N	N	N				N	N	N	N	N	N	N
Temporary events	N	N	N	N	P	P	P	P				P	P	Pu	Pur	Pur/S	N	Pur
Timber removal	P	P	P	P	P	P	P	P				P	P	Pr	Pur	Pur	N	Pur
Tourist homes	N	N	N	N	P	P	P	P				N	N	N	Pur	Pur/S	N	Pur

ZONING

	District														Overlay District					
	Residential							Commercial							MC	FC	SP	WWP	GWP	SHC
	RA	CCVR	CVR	NCVR	CCVC	CVC	NCVC	HC	RC	II	I2	RR								
Tourist homes, owner-occupied	P	P	P	P	P	P	P	P		N	N	Pr	N	N	Pur	Pur/S	N	Pur		
Utility systems	Pr	Pr	Pr	Pr	Pr	Pr	Pr	Pr		Pr	Pr	Pr	Pr	Pu	Pur/S	Pur/S	N	Pur		
Visual/Performing arts, indoors	N	N	N	N	P	P	P	P		P	P	P	P	N	Pur	Pur/S	N	Pur		
Visual/Performing arts, outdoors	N	N	N	N	Pr	Pr	Pr	Pr		Pr	Pr	Pr	Pr	N	Pur	Pur/S	N	Pur		
Water storage/impoundment	Pr	Pr	Pr	Pr	Pr	Pr	Pr	Pr		Pr	Pr	Pr	Pr	N	Pur	S	N	Pur		
Wetland/Stream crossings	Pr	Pr	Pr	Pr	Pr	Pr	Pr	Pr		Pr	Pr	Pr	Pr	Pu	Pur	S	N	Pur		
Wholesale/Light industry	N	N	N	N	N	N	N	P		P	P	N	N	N	Pur	Pur/S	N	Pur		
Wildlife refuges	P	P	P	P	P	P	P	P		P	P	P	P	Pu	Pur	Pur	N	Pur		
Wireless communication towers < 55 feet	S	S	N	N	P	P	P	P		S	S	S	S	S	Pur	Pur/S	N	Pur		
Wireless communication towers > 55 feet	S	S	N	N	N	N	N	N		S	S	S	S	S	Pur	Pur/S	N	Pur		
Yard sales	Pr	Pr	Pr	Pr	Pr	Pr	Pr	Pr		Pr	Pr	Pr	Pr	N	Pu	Pur/S	N	Pur		
Insecticides	P	P	P	P	P	P	P	P		P	P	P	P	Pu	Pu	N	Pur/S	N	Pur	
Chemical fertilizer	P	P	P	P	P	P	P	P		P	P	P	P	Pu	Pu	N	Pur/S	N	Pur	
Undersized lots, buildable	P	P	P	P	P	P	P	P		P	P	N	P	P	Pur	S	N	Pur		
Protective rip rap	P	P	P	P	P	P	P	P		P	P	P	P	P	P	Pur	S	N	Pur	

APPENDIX

Chapter A200

ZONING BOARD OF ADJUSTMENT PROCEDURES

§ A200-1. Authority.

§ A200-5. Applications; decisions.

§ A200-2. Officers.

§ A200-6. Records.

§ A200-3. Members and alternates.

§ A200-7. Joint meetings and hearings.

§ A200-4. Meetings.

§ A200-8. Amendments.

[HISTORY: Adopted by the Zoning Board of Adjustment of the Town of Conway as last amended 7-20-2011. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Site plan review — See Ch. 110.
Subdivision of land — See Ch. 130.

Zoning — See Ch. 190.

§ A200-1. Authority.

These rules of procedure are adopted under the authority of RSA 676:1, and Chapter 190, Zoning, of the Conway Code.

§ A200-2. Officers.

- A. A Chairman shall be elected annually by a majority vote of the Board at the first scheduled meeting after the Annual Town Meeting. The Chairman shall preside over all meetings and hearings, appoint such committees as directed by the Board and shall affix his/her signature in the name of the Board.
- B. A Vice-Chairman shall be elected annually by a majority vote of the Board at the first scheduled meeting after the Annual Town Meeting. The Vice-Chairman shall preside in the absence of the Chairman and shall have the full powers of the Chairman on matters that come before the Board during the absence of the Chairman.
- C. All officers shall serve for one year and shall be eligible for reappointment.

§ A200-3. Members and alternates.

- A. Members must reside in the community and they are expected to attend each meeting of the Board to exercise their duties and responsibilities. Any member unable to attend a meeting shall notify the Chairman as soon as possible. Members shall participate in the decision-making process and vote to approve or disapprove all motions under consideration.
- B. Up to five alternate members shall be appointed, as provided for by the local legislative body, and should attend all meetings to familiarize themselves with the workings of the

Board to stand ready to serve whenever a regular member of the Board is unable to fulfill his/her responsibilities. Alternates may ask questions during public hearings; however, they are not permitted to otherwise participate in discussions, deliberations, motions, seconds or votes unless they are appointed to replace an absent Board member.

§ A200-4. Meetings.

- A. Regular meetings shall be held as necessary at the Conway Town Offices in Center Conway at 7:00 p.m. on the third Wednesday of each month. Other meetings may be held and/or locations may be used on call of the Chairman, provided public notice and notice to each member is given at least 24 hours, excluding Sundays and legal holidays, prior to such meetings.¹
- B. Town staff shall provide technical assistance as well as maintain a record of all meetings, transactions and decisions of the Board.
- C. Quorum.
 - (1) A quorum for all meetings of the Board shall be three members, including alternates sitting in place of members. In the event that fewer than five members are present, the applicant shall be offered the choice of having the appeal heard with the present members or to have the hearing continued until five members can be present to hear the appeal.
 - (2) RSA 674:33, III provides that ". . .the concurring vote of three members of the Board shall be necessary to reverse any action of an administrative official or to decide in favor of the applicant. . ." For this reason, the Board will make every effort to ensure that a full five-member Board is present for the consideration of any appeal.
 - (3) If any regular Board member is absent from any meeting or hearing, or disqualifies himself from sitting on a particular case, the Chairman shall designate one of the alternate members to sit in place of the absent or disqualified member, and such alternate shall be in all respects a full member of the Board while so sitting.
- D. Disqualification.
 - (1) If any member finds it necessary to disqualify himself from sitting in a particular case, as provided in RSA 673:14, he shall notify the Chairman as soon as possible so that an alternate may be requested to sit in his place. When there is uncertainty as to whether a member should be disqualified to act on a particular application, that member or another member of the Board may request the Board to vote on the question of disqualification. Any such request shall be made before the public hearing gets underway. The vote shall be advisory and nonbinding.
 - (2) The disqualification shall be announced by either the Chairman or the member disqualifying himself before the beginning of the public hearing on the case. The

1. Editor's Note: Amended during codification project.

disqualified member shall absent himself from the Board table during the public hearing and during all deliberation on the case.

E. Order of business. The order of business for regular meetings shall be as follows:

- (1) Call to order by the Chairman.
- (2) Public hearing(s).
- (3) Minutes of previous meeting.
- (4) Unfinished business.
- (5) New business.
- (6) Communications and miscellaneous.
- (7) Other business.
- (8) Adjournment.

§ A200-5. Applications; decisions.

A. Applications.

- (1) Each application for a hearing before the Board shall be made on forms provided by the Board. Complete applications must be submitted to the Town at least 21 days prior to the regular meeting at which the appeal shall be heard.
- (2) Additional information to be considered by the Board must be provided to the Town no fewer than seven days prior to the meeting at which it is to be considered so Town staff can forward that information to the Board no later than 72 hours prior to said meeting.
- (3) Appeals from an administrative decision taken under RSA 676:5 shall be filed within 30 days of the decision.
- (4) All forms and revisions prescribed shall be adopted by resolution of the Board and shall become part of these rules of procedure.

B. Public notice.

- (1) Public notice of public hearings on each application shall be given in the Conway Daily Sun and shall be posted at the Conway Post Office, the Center Conway Post Office and the Town Offices not less than five days before the date fixed for the hearing. Notice shall include the name of the applicant, description of property, to include Tax Map identification, action desired by the applicant, provisions of the zoning ordinance concerned, the type of appeal being made and the date, time and place of the hearing.
- (2) Personal notice shall be made by certified mail to the applicant and all abutters not less than five days before the date of the hearing. Notice shall also be given to the

Planning Board, Town Clerk and other parties deemed by the Board to have special interest. Said notice shall contain the same information as the public notice.

(3) Costs of all required notices must be paid for, in advance, by the applicant.

C. Public hearing. The conduct of public hearings shall be governed by the following rules:

- (1) The Chairman shall call the hearing in session.
- (2) The Chairman shall read the application and report on how public notice and personal notice were given.
- (3) Members of the Board may ask questions at any point during testimony.
- (4) Each person who appears shall be required to state his name and address and indicate whether he is a party to the case or an agent or counsel of a party to the case.
- (5) Any member of the Board, through the Chairman, may request any party to the case to speak a second time.
- (6) Any party to the case who wants to ask a question of another party to the case must do so through the Chairman.
- (7) The applicant shall be called to present his appeal.
- (8) Those appearing in favor of the appeal shall be allowed to speak.
- (9) Those in opposition to the appeal shall be allowed to speak.
- (10) The applicant and those in favor shall be allowed to speak in rebuttal.
- (11) Those in opposition to the appeal shall be allowed to speak in rebuttal.
- (12) Any person who wants the Board to compel the attendance of a witness shall present his request in writing to the Chairman not later than seven days prior to the public hearing. All expenses incurred under this section for compelling the attendance of a witness shall be paid by the party or parties requesting that a witness be compelled to attend a meeting of the Board. Payment for compelling witnesses must be submitted to the Town not later than seven days prior to the public hearing.
- (13) The Board will hear with interest any evidence that pertains to the facts of the case or how the facts relate to the provisions of the zoning ordinance and state zoning law.
- (14) The Chairman shall present a summary setting forth the facts of the case and the claims made for each side. Opportunity shall be given for correction from the floor.
- (15) The hearing on the appeal shall be declared closed and the next case called up.

- D. Decisions. The Board shall decide all cases within 14 days. The Board will approve, approve with conditions, deny the appeal, or defer its decision. Notice of the decision or deferral will be made available for public inspection within five business days, as required by RSA 676:3, and will be sent to all persons notified of the public hearing. If the appeal is denied or deferred, the notice shall include the reasons therefor.²

§ A200-6. Records. ³

- A. The records of the Board shall be kept by Town administrators and made available for public inspection at the Town Offices in Center Conway in accordance with RSA 673:17.
- B. Final written decisions will be placed on file and available for public inspection within five business days after the decision is made (RSA 676:3).
- C. Minutes of all meetings, including names of Board members, persons appearing before the Board, and a brief description of the subject matter, shall be open to public inspection within five business days of the public meeting (RSA 91-A:2, II).

§ A200-7. Joint meetings and hearings.

- A. RSA 676:2 provides that the Board of Adjustment may hold joint meetings or hearings with other "land use boards," including the Planning Board, the Building Code Board of Appeals, and the Inspector of Buildings, and that each board shall have discretion as to whether or not to hold a joint meeting with any other land use board.
- B. Joint business meetings with any other land use board may be held at any time when called jointly by the chairmen of the two boards.
- C. A public hearing on any appeal to the Board of Adjustment will be held jointly with another board only under the following conditions:
- (1) The joint public hearing must be a formal public hearing on appeals to both boards regarding the same subject matter; and
 - (2) If the other board is the Planning Board, RSA 676:2 requires that the Planning Board Chairman shall chair the joint hearing. If the other board is not the Planning Board, then the Board of Adjustment Chairman shall chair the joint hearing; and
 - (3) The provisions covering the conduct of public hearings set forth in these rules, together with such additional provisions as may be required by the other board, shall be followed; and
 - (4) The other board shall concur in these conditions.

2. Editor's Note: Amended during codification project.

3. Editor's Note: Amended during codification project.

§ A200-8. Amendments.

These rules of procedure may be amended by a majority vote of the members of the Board, provided that such amendment is read at two successive meetings immediately preceding the meeting at which the vote is to be taken.

Chapter SL

STATE LAW REFERENCE TABLE

§ SL-1. Statutory citations in Charter and Code.

[References to the Revised Statutes Annotated of the State of New Hampshire (RSA) appear in the following sections of the Town of Conway Charter and Code.]

§ SL-1. Statutory citations in Charter and Code.

Statutory Citation	Charter/Code Section	Subject Matter
RSA 21:34-a, II(a)(4)	§ 35-1, § 35-2	Definitions of "agriculture" and "farming"
RSA 31:39	§ 12-3, § 67-1, § 105-8, § 115-1, § 160-4	Penalties for violations of bylaws
RSA 36:4 (repealed 1983, 447:5, IV)	Charter Part II, § XXII, Subsection F	Planning Board
RSA 36:54 through 36:58	§ 110-12	Review of developments of regional impact
RSA 36:55	§ 179-3C	Definition of "development of regional impact"
RSA 36:57	§ 179-3C	Procedure for review of developments of regional impact
RSA Ch. 36-A	Charter Part II, § XXII, Subsection C	Conservation Commission
RSA 36-A:4-a, I(b)	Charter Part II, § XXII, Subsection C	Authorized expenditure of funds by Conservation Commission
RSA 36-A:5	Charter Part II, § XXII, Subsection C	Conservation Commission appropriations
RSA Ch. 37	Charter Part II, § XVI	Town Manager
RSA 37:6, VII	Charter Part II, § XXII	Powers and duties of Town Manager
RSA 39:3	Charter Part II, §§ VI, VIII, IX	Town Meeting Articles
RSA 40:13, II-b(d)	Charter Part II, § VIII	Posting of Warrants
RSA 41:11	Charter Part III, § II	Selectmen authority to regulate use of highways
RSA 41:14-a	Charter Part III, § XI	Selectmen authority to acquire land and/or buildings
RSA 41:29-a	Charter Part II, § XVIII	Deputy Treasurer
RSA 41:38	Charter Part II, § XVII	Deputy Tax Collector

Statutory Citation	Charter/Code Section	Subject Matter
RSA 47:17	§ 156-1	Power of city councils to enact bylaws and ordinances
RSA Ch. 48-A	Ch. 72	Housing standards
RSA Ch. 49-B	Charter Part I, § II; Part III, §§ XIV, XV	Home Rule – Municipal Charters
RSA 72:1-c	§ 135-4	Optional collection of resident tax
RSA 72:28	§ 135-8, § 164-1	Standard and optional veterans' tax credit
RSA 72:35	§ 135-9	Tax credit for service-connected total disability
RSA 72:37	§ 135-3	Tax exemption for the blind
RSA 72:62	§ 23-2	Tax exemption for solar energy systems
RSA 72:66	§ 23-3	Tax exemption for wind-powered energy systems
RSA 72:70	§ 23-1	Tax exemption for wood-heating energy systems
RSA 80:52-a	§ 135-1	Prepayment of taxes
RSA 91-A:3	Charter Part II, § XV	Access to governmental records for nonpublic sessions
RSA 126-K:4	§ 90-18	Sale or distribution of tobacco products to minors
RSA Ch. 147	§ 105-8	Local authority to regulate nuisances, toilets, drains, rubbish and waste
RSA Ch. 147-A	§ 115-10A	Hazardous waste management
RSA 149-M:17	§ 115-1	Town authority and responsibility for solid waste management
RSA 149-M:4	§ 115-8B	Solid waste management definitions
RSA 155-E:2	§ 47-4A	Excavation permits required
RSA 155-E:2-a	§ 47-4A	Exceptions to excavation permit requirements
RSA 155-E:4, III	§ 47-4C(3)	Prohibited excavation projects
RSA 155-E:4-a	§ 47-4C(1)	Excavation operational standards
RSA 155-E:5	§ 47-4C(8)	Excavation reclamation standards
RSA 155-E:5-a	§ 47-4C(8)	Excavation incremental reclamation standards
RSA 155-E:5-b	§ 47-12A(3)	Exceptions to excavation standards
RSA 155-E:7	§ 47-5F, § 47-13	Excavation hearing
RSA 155-E:8	§ 47-6A	Excavation permit fees
RSA 155-E:9	§ 47-15	Excavation permit appeals
RSA 155-E:10	§ 47-14A	Enforcement of excavation regulations

Statutory Citation	Charter/Code Section	Subject Matter
RSA 155-E:11	§ 47-1, § 47-10H	Municipal authority to regulate excavations
RSA 160-B:1, V	§ 53-1	Definition of "display" of fireworks
RSA 160-B:2	§ 53-3	Penalty for violating prohibition on sale of fireworks
RSA 160-B:3	§ 53-3	Penalty for violating prohibition on display of fireworks
RSA 160-B:10	§ 53-2	Local authority to regulate fireworks displays
RSA 169-B:32	§ 90-18	Delinquent children
RSA Title XIII	§ 12-1	Alcoholic beverages
RSA Ch. 175	§ 95-1	Alcoholic beverages definitions and general provisions
RSA 175:1	§ 12-1	Alcoholic beverages definitions
RSA Ch. 227-J	§ 190-28C(8), § 190-30H(3)	Timber harvesting
RSA 227-J:9	§ 190-30H(3)	Cutting of timber near certain waters and public highways
RSA Ch. 227-M	Charter Part III, § XI	New Hampshire Land and Community Heritage Investment Program
RSA Ch. 231	§ 130-65	City, town and village district highways
RSA 231:28 through 231:33	§ 130-68E(10)	Betterment assessments for laying out highways
RSA Ch. 236	§ 130-1	Highway regulation, protection and control regulations
RSA 236:13	§ 130-67C(8)(j)	Driveways and other public way access
RSA 259:125	§ 12-1, § 62-4, § 95-7, § 160-1	Definition of "way"
RSA 261:86	§ 152-8A(10)	Special number plates for vehicles of veterans
RSA 261:88	§ 152-8A(10)	Walking disability vehicle plates and placards
RSA 261:157-a	§ 164-1	Vehicle registration exemption for prisoners of war
RSA 265:73-a	§ 152-8A(10)	Signs on parking spaces reserved for the disabled
RSA 266:14	§ 160-1	Vehicle width defined
RSA 266:24	§ 160-1A	Special permits for vehicles over height, weight, or width limits
RSA 286:1	§ 120-1	License required for showmen

Statutory Citation	Charter/Code Section	Subject Matter
RSA 286:2	§ 120-1	License required for theatricals and parades
RSA 286:4-a	§ 120-7I	Added Town expenses for special events
RSA 286:5	§ 120-6B	Penalty for violating show and open-air meeting regulations
RSA Ch. 321-A	§ 16-1	Carnival-amusement operators
RSA 356-B:3	§ 110-3, § 130-3 (definitions of "abutter")	Condominium Act definitions
RSA 362-A:9	§ 179-4J	Net energy metering
RSA Ch. 422-b	§ 179-4G	Control of tall structures
RSA Ch. 424	§ 179-4G	Airport zoning
RSA 430:49	§ 190-27K, § 190-28H	State preemption of local pesticide management regulations
RSA 466:30-a	§ 35-1	Dog Control Law
RSA 466:31, II(a)	§ 35-4	Nuisance dogs
RSA Ch. 477	§ 190-3J	Conveyance of realty and interests therein
RSA Ch. 482-A	§ 190-27H(2); § 190-28E(2)	Fill and dredge in wetlands
RSA 482-A:3	§ 190-26C(3)	Excavating and dredging permits for work in wetlands
RSA 485-A:29 through 485-A:44	§ 190-32 (definition of "functionally deficient")	Sewage disposal systems
RSA 485-A:17	§ 190-27J, § 190-28G	Terrain alteration
RSA Ch. 571-B	§ 190-17N, § 190-18L; § 190-19L, § 190-20N	Exposing minors to harmful materials
RSA 571-B:1	§ 190-32 (definition of "sexually oriented business")	Exposing minors to harmful materials: definitions
RSA Title LXII	§ 152-8A(10), (13)	Criminal Code
RSA 644:2, V(b)	§ 12-1	Definition of "public place"
RSA 669:13	Charter Part II, § XI	Nonpartisan ballot system
RSA Title LXIV	§ 190-6B	Planning and zoning
RSA Chs. 672 through 677	§ 130-1	Planning and zoning
RSA 672:1, III-a	§ 179-1	Energy-efficient purposes for land use regulations
RSA 673:1	Charter Part II, § XXII, Subsection F; § 23-12	Local land use boards

Statutory Citation	Charter/Code Section	Subject Matter
RSA 673:2, II(a)	Charter Part II, § XXII, Subsection F	Selectmen representation on Planning Board
RSA 673:2, II(b) and (c)	Charter Part II, § XXII, Subsection F	Selection of Planning Board members
RSA 673:4	Charter Part II, § XXII, Subsection D	Historic District Commission
RSA 674:1	Charter Part II, § XXII, Subsection F	Planning Board duties
RSA 674:2	§ 130-3 (definition of "Master Plan")	Master Plans
RSA 674:5 through 674:8	Charter Part II, § XXII, Subsection F	Capital improvements program
RSA 674:16	§ 190-2	Municipal authority to enact zoning regulations
RSA 674:30	§ 130-61	Emergency temporary zoning and planning ordinances in relation to utility structures
RSA 673:33, I(b)	§ 190-26D	Zoning Board of Adjustment authority to grant zoning variances
RSA 674:35	Charter Part II, § XXII, Subsection F	Power to regulate subdivisions
RSA 674:36	§ 130-28	Content of subdivision regulations
RSA 674:43	Charter Part II, § XXII, Subsection F; § 110-1	Power to review site plans
RSA 674:44	§ 110-8	Adoption of site plan review regulations
RSA 674:62 through 674:66	§ 179-1	Small wind energy systems
RSA 674:66	§ 179-3C	Abutter and regional notification for small wind energy systems
RSA 675:3	§ 23-24	Planning and zoning amendments
RSA 676:3	§ 110-17	Planning and zoning decisions
RSA 676:4	§ 47-5; § 110-7, § 110-8, § 110-9, § 110-11, § 110-13, § 110-16, § 110-17, § 130-9A, D, § 130-10, § 130-19A, C	Planning Board review of applications and plats
RSA 676:4-a	§ 110-46, § 110-51	Revocation of recorded land use approval
RSA 676:14	§ 190-5	Determining precedence of conflicting planning and zoning laws
RSA 676:16	§ 130-60	Penalties for transferring lots in unapproved subdivisions

Statutory Citation	Charter/Code Section	Subject Matter
RSA 676:17	§ 23-20, § 179-7, § 190-6B	Planning and zoning fines and penalties
RSA 676:17-a	§ 190-6B	Planning and zoning cease-and-desist orders
RSA 676:17-b	§ 190-6B	Land use citations
RSA Ch. 677	§ 190-31D(1)	Zoning and planning rehearing and appeal procedures
RSA 677:15	§ 110-18	Court review of Planning Board decisions

DERIVATION TABLE

Chapter DT

DERIVATION TABLE

§ DT-1. Derivation Table of prior Code to 2016 Code.

In order to assist Code users in the transition to the new Code's organization, the Derivation Table indicates where chapters and articles of the prior Code have been included in the 2016 Code, or the reason for exclusion.

§ DT-1. Derivation Table of prior Code to 2016 Code.

REP = Repealed effective with adoption of Code; see Ch. 1, Art. I.
 NI = Not included in Code but saved from repeal.

Chapter/Title From Prior Code	Location in 2016 Code
Ch. 5, Budget	
Art. I, Municipal Budget Law	NI; see RSA Ch. 32
Art. II, Budget Committee Membership	NI; see Charter Part II, § XXI
Art. III, Designation of Budget Committee Members	NI; see Charter Part II, § XXI
Ch. 8, Cable Television Authorization	NI
Ch. 12, Clerk and Tax Collector	
Art. I, Combining of Offices	NI; see Charter Part II, § XVII
Art. II, Term of Office	NI; see Charter Part II, § XVII
Art. III, Deputy Tax Collector	See Charter Part II, § XVII
Ch. 16, Conservation Commission	
Art. I, Creation Pursuant to Statute	NI; see Charter Part II, § XXII, Subsection C
Art. II, Funding	See Charter Part II, § XXII, Subsection C
Ch. 21, Historic District Commission	See Charter Part II, § XXII, Subsection D
Ch. 22, Housing Commission	See Charter Part II, § XXII, Subsection E
Ch. 32, Personnel Policy	
Arts. I - III, Benefits; Labor Agreement	NI
Art. IV, Indemnification of Employees	See Charter Part III, § III
Ch. 36, Planning Board	See Charter Part II, § XXII, Subsection F

Chapter/Title From Prior Code	Location in 2016 Code
Ch. 40, Police Commission	See Charter Part II, § XXII, Subsection H
Ch. 43, Purchasing Policy	REP
Ch. 46, Retirement System	See Charter Part II, § XXIII
Ch. 50, Social Security	
Art. I, Adoption of Plan	NI
Art. II, Administration	NI
Ch. 54, Tax Anticipation Notes	NI
Ch. 58, Town Meeting	See Charter Part II, § XI
Ch. 62, Treasurer	
Art. I, Term of Office	NI; see Charter Part II, § XVIII
Art. II, Deputy Treasurer	See Charter Part II, § XVIII
Ch. 83, Amusements	
Art. I, Carnival and Amusement Rides	Ch. 16
Ch. 88, Building Construction	Ch. 23, Art. IV
Ch. 90, Life Safety Code	Ch. 23, Art. II
Ch. 90A, Fire Prevention Code	REP
Ch. 91, Sprinkler System Codes	Ch. 23, Art. III
Ch. 93, Dogs and Other Animals	Ch. 93
Ch. 96, Drainage Systems	Ch. 41
Ch. 99, Energy Sources, Alternative	
Art. I, Wood Heating System	Ch. 23, Art. I, § 23-1
Art. II, Solar Energy System	Ch. 23, Art. I, § 23-2
Art. III, Wind Power System	Ch. 23, Art. I, § 23-2
Ch. 100, Excavations	Ch. 47
Ch. 102, Hawkers, Peddlers and Solicitors	Ch. 62
Ch. 105, Hazardous Wastes	Ch. 67
Ch. 106, Septage	Ch. 105, Art. II
Ch. 109, Housing Standards	Ch. 72
Ch. 113, Solid Waste	Ch. 115
Ch. 115, Motor Vehicles, Registration of	Ch. 164
Ch. 118, Parks	Ch. 90
Ch. 120, Peace and Good Order	Ch. 95
Ch. 122, Septic Systems	Ch. 105, Art. I
Ch. 123, Site Plan Review Regulations	Ch. 110
Ch. 127, Snow and Ice	Ch. 125, Art. III
Ch. 131, Subdivision of Land	Ch. 130
Ch. 134, Taxation	Ch. 135

Chapter/Title From Prior Code	Location in 2016 Code
Ch. 137, Taxicabs	Ch. 140
Ch. 137A, Animal Drawn Conveyances	Ch. 156
Ch. 139, Vehicles, All-Terrain	Ch. 148
Ch. 141, Vehicles and Traffic	Ch. 152
Ch. 142, Vehicles, Height and Width Limits	Ch. 160
Ch. 143, Alcoholic Beverages	Ch. 12
Ch. 147, Zoning	Ch. 190
Ch. 147A, Small Wind Energy Systems Ordinance	Ch. 179

DISPOSITION LIST

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