



TOWN OF CONWAY

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CONWAY CHARTER COMMISSION 2023 FINAL REPORT

In accordance with New Hampshire **Section 49-B:4-b**, the Town of Conway Charter Commission submits its final report to Conway's municipal officers. This document explains the final draft of the proposed new charter as approved by the state of New Hampshire and compares and contrasts it with Conway's current charter.

The Town of Conway's current form of government is authorized under RSA 40-13. It is commonly known as the SB 2 form of government (from the Senate bill that originally authorized it). Its governing body is a board of selectmen. It provides for an annual town meeting split into two sessions. The first session (deliberative) is for explanation, discussion and amendments to the proposed operating budget and warrant articles. The second session (official ballot) allows voters to cast ballots to pass/fail proposed articles.

The proposed new form of government establishes a town council as authorized under RSA 49-D:2 and adopts one of several options allowed under RSA 49-D3. The option proposed by the Charter Commission is called the "official ballot town council".

Reviewing and adopting a new town charter is an infrequent event. The Charter Commission felt it must not only develop a charter that meets the current needs of the town but also be flexible enough to address Conway's future needs. The Commission is of the opinion that the governing body may have to grow along with the town. Current law limits the number of selectmen to a maximum of five members. Looking at Conway's growth over the last thirty years, the commission concludes that a town council with seven members is now warranted, and the ability to add more will provide the flexibility needed to meet future challenges.

The Commission is proposing a reduction in the number of seats on the Municipal Budget Committee (from 17 to 13 members). The Commission feels this reduction will help foster contested races, giving voters more choices. Previously, most if not all, budget committee members ran unopposed, indicating the committee probably is too large. There has also been a problem with unfilled precinct seats. The recent trend of precincts dissolving or merging has been anticipated and as this happens, their seats will not disappear but automatically convert to "at-large" seats.

In the hope of fostering more public participation and interest, the Commission has recommended that the zoning board of appeals become an elected board as opposed to what it is now, an appointed board.

The Commission is proposing the town be required to prepare a capital improvement plan, something not mentioned in the current charter.

In several places, the new charter is codifying what is already a town practice but not mentioned in the current charter - e.g. bonding of certain employees or having a personnel plan.

The new town council will have limited bonding authority but be able to address citizen petitions and pass ordinances through a public hearing process without having to wait for an annual town meeting. Citizen initiatives that are declined by the town council will still have the right to get the requisite number of signatures to be placed on the town's warrant as is currently the practice.

The council will have the authority to incorporate capital reserves into the overall budget if the requested amount has not increased more than 3 percent. Similarly, the council will be able to approve non-profit's requests for funding and incorporate them into the budget if they are not asking for an increase in funding and the requests have been approved by voters in the previous three years. Ultimately, the voters will have the final say on this new, expanded budget.

The council will have the authority to approve town roads, if so petitioned, and if they meet town standards. If the council declines to approve the road, petitioners will still have the right to go to the voters directly.

In order to foster better communication between the council and other boards, committees, and commissions, the new charter requires the council to meet at least annually with the chairs of said groups. It also requires the chairman of the school board to be invited. Similarly, the Commission is proposing adding a member of the planning board as an ex-officio voting member of the conservation commission. Theoretically, the more "cross-pollination" between land-use boards and commissions, the better awareness there will be about what each board is doing.

The Charter Commission has proposed changing to a town council form of government in order to improve the efficiency of town operations and governance. At the same time, the Commission wishes for the voters to retain their authority over important items of widespread concern, such as the town's budget, planning and zoning issues, large bond requests, capital expenditures, and union contracts. It has constructed this form of government to substantially mirror the current SB 2 format.

Conway will still have a deliberative session. Voters will still be able to go to the polls and let their voices be heard. The proposed charter still allows voters to have the ultimate say on the aforementioned critical items.

It is hoped that a smaller warrant containing articles of townwide importance will encourage voters to attend deliberative sessions and get more people to turn out and vote. None of this can be guaranteed - we can only set in place the conditions that will encourage it.

Overall, the Charter Commission is proposing a new charter that increases efficiency, improves communication, adds flexibility and, most important, retains the rights of Conway voters to self-determination.

Town of Conway

2023/2024 Proposed Municipal Charter

Voted and unanimously approved by the Conway Charter Commission on:
January 15, 2024.

PREAMBLE

The people of Conway, New Hampshire, by their right and authority as granted by Part First, Article 39 of the New Hampshire State Constitution dated November 16, 1966, and the General Assembly on October 1, 1765, and all of the rights granted subsequently to the Town by the State of New Hampshire, hereby adopt this Charter to establish a new form of government. This form of government, as provided for in New Hampshire Revised Statutes Chapter 49-D:3 1-a, is known as the "Official Ballot Town Council".

The form of municipal government shall provide for the common good, realize a more efficient execution of the Town's operations and responsibilities, offer all of its citizens protection and security, and promote good, lawful and ethical governance.

PURPOSE

The Official Ballot Town Council form of government for Conway, New Hampshire clearly defines the Town's structure and organization, defines its duties and responsibilities, establishes requirements for the proper transaction of Town business, maintains the rights of its citizens to oversee the appropriations and expenditures, and encourages greater participation of its citizens on Boards, Commissions and Committees and greater participation in its Annual Town meetings.

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ARTICLE ONE

Incorporation; Town Form of Government; Power

0.1 Incorporation

The inhabitants of the Town of Conway shall continue to be a body politic and corporate under the name of the "Town of Conway" of 1765 and as such to enjoy all the rights, immunities, powers and privileges and be subject to all the duties liabilities now pertaining to or incumbent upon them as a municipal corporation. All existing property of the Town shall remain vested in it, and its existing debts and obligations shall remain obligatory upon it under this Charter.

0.2 Town Form of Government

The administration of the fiscal, prudential, municipal and other affairs of the Town, with the governance thereof, shall be vested in a Town Council, (RSA 49-D:3) shall be directed by a Town Manager, and shall consist of various departments of the Town established by the Charter and from time to time by the Town Council. Except as expressly authorized by this Charter, no Councilor shall participate in the conduct of the administrative affairs of the town as assigned by the general laws of the state or this charter to the town manager, department heads or other town officials, boards, or commissions.

0.3 Construction

The powers of the municipality under this Charter are to be construed liberally in favor of the Town, and the specific mention of particular powers is not intended to limit in any way the general powers of the municipality as stated in Section 1.1.

Any word in this charter which may be construed to be either masculine or feminine gender shall be considered gender free.

0.4 Intergovernmental Affairs

Subject only to express limitations in the provisions of the New Hampshire State Statutes, the Town may exercise any of its powers or perform any of its functions under this Charter and may participate in financing thereof, jointly or in cooperation, by contract or otherwise, with the State of New Hampshire, or any other political subdivision or agency thereof, or the United States of America or any agency thereof.

Article Two

Elections, Election Officials: Conduct of Elections

2.1 Composition of Board of Election Officers

The Supervisors of the Checklist, the Moderator, and the Town Clerk shall constitute the Board of Election Officers. The Moderator shall be Chairman. The Town Clerk shall serve as Clerk of this Board.

2.2 Moderator

There shall be a Moderator of the Town who shall have all the powers and duties granted to him by this Charter and State Law. He shall be elected on an at large basis to a term of two (2) years at the Town election. Without limitation to foregoing, for election purposes, the Moderator shall have the power to appoint all election officials except those that must be elected or otherwise appointed. Vacancies in the office of Moderator shall be filled by appointment made by the Supervisors of the Checklist, in accordance with RSA 669:62

2.3 Supervisors of the Checklist

A. There shall be three (3) Supervisors of the Checklist who shall hold office for six (6) years (and until their successors are elected and qualified) on staggered basis so that one supervisor is elected at each odd year Town election.

B. Vacancies in the Supervisors of the Checklist shall be filled pursuant to RSA 669:64. The person so appointed shall hold office until the vacancy for the unexpired term is filled at the next Town election.

C. The Supervisors shall elect a chairman for a term of two (2) years within thirty

(30) days of the Annual Town Meeting.

2.4 Duties and Sessions of the Supervisors of the Checklist

The Supervisors of the Checklist shall have such powers and duties as are specified under New Hampshire law.

2.5 Conduct of Elections

A. The election officials, whose duty it is to conduct regular elections, shall use a Non-Partisan Official Ballot System as detailed in the election laws of the State of New Hampshire, on the second Tuesday in April to choose Councilors and such other officials as specified by this Charter, each of whom shall be elected by the voters of the entire town.

B. At all Town elections the polls shall be open not less than eleven (11) hours and may not open earlier than 6 AM, nor later than 8 AM, nor closed earlier than 7 PM. The Council shall determine the hours at least thirty (30) days prior to the election.

C. The election laws of the State of New Hampshire shall govern voter qualifications and conduct of elections.

D. Notwithstanding RSA 39:3-d, the Town shall utilize the official ballot voting on all issues required pursuant to Section 9.2 of this charter.

E. The warrant for any Annual meeting shall prescribe the place, day, and hour for each of the two (2) separate sessions of the meeting, and notice shall be given in accordance with RSA 39:5.

F. The first session of the Annual Meeting, which shall be for transaction of all business other than voting by official ballot shall be held between the second Tuesday in March and the Saturday following the second Tuesday in March, at a time prescribed by the Town Council.

G. The second Tuesday in April shall be deemed the Annual Meeting date for the purposes of all applicable statutes pertaining to hearings notice, petitioned articles, warrants, including but not limited to, RSA 31:95-de, RSA 32:5, RSA 33:8-a, RSA 39:3 and RSA 39:5. RSA 39:3 shall only be used for the purpose of petitioned warrant articles for appropriations.

H. The Town Clerk shall prepare an official ballot, which may be separate from the official ballot used to elect officers, for all warrant articles. Wording shall be substantively the same as the main motion, as it was or amended at the first session, with only such minor textual changes as may be required to cast the motion in the form of a question to voters.

I. The first session of the Annual Meeting, governed by the provisions of RSA

40:4, RSA 40:4a, RSA 40:4b, RSA 40:4f and RSA 40:6-10, shall consist of explanation, discussion, and debate of each warrant article. Warrant articles may be amended, subject to the following limitations: (1) Warrant articles whose wording is prescribed by law shall not be amended and (2) Warrant articles that are amended shall be placed on the official ballot for a final vote on the main motion as amended. All budgetary warrant articles shall be placed on the official ballot for a final vote.

J. The second session of the Annual Meeting shall be held on the second Tuesday in April to elect, by official ballot, officers of the Town and to act upon questions required by law to be inserted on said official ballot, such articles for bonds and notes as may be presented, and to vote on all appropriation warrant articles from the first session.

K. Notwithstanding RSA 669:1, the second session shall be deemed the annual election date for purposes of all applicable election statutes including, but not limited to, RSA 669:5, RSA 669:19 and RSA 669:30.

L. "Operating Budget" as used in this Section means a statement of recommended appropriations and anticipated revenues submitted to the Annual Meeting as an attachment to, and as part of the warrant for, an annual or special meeting, exclusive of "special warrant articles", as defined in RSA 32:3, VI, I.

M. If no operating budget article is adopted, the Town either shall be deemed to have approved a "Default Budget," which shall be developed in accordance with RSA 40: 13: IX (b), or the Town Council may hold a special meeting to take up the issue of a revised operating budget only: provided that RSA 31:5 shall not apply to such special meeting. If no operating budget article is adopted, the estimated revenues shall nevertheless be deemed to have been approved.

N. The wording of the article on the operating budget shall be as follows: "Shall the Town raise and appropriate as an operating budget, not including appropriations by special warrant articles and other appropriations voted separately, the amounts set forth on the budget posted with the warrant or as amended by vote of the first session, for the purposes set forth therein, totaling \$_____? Should this article be defeated, the default budget shall be \$_____, which is the same as last year, with certain adjustments required by previous action of the Town or by law; or the Town Council may hold one (1) special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only.

O. Voting at the second session of the Annual Meeting shall conform to the procedures for the nonpartisan ballot system as set forth in RSA 669:19-29, including all requirements pertaining to absentee voting, polling places, and polling hours.

P. Warrant articles concerning the issuance of bonds or notes shall be placed on the official ballot for approval by the voters in accordance with Chapter 9.2 C.

Q. Votes taken at the second session of the Annual Meeting shall be as provided by New Hampshire State Law.

R. Votes taken at the second session of the annual Meeting shall not be reconsidered except by warrant article at a subsequent annual or special meeting.

S. The warrant for any special meeting shall prescribe the date, place and hour for both the first and second session. The second session shall be warned for a date not fewer than twenty (28) days nor more than (60) days following the first session. The first and second sessions shall conform to the provisions of this subdivision pertaining to the first and second sessions of annual meetings. If a special election is required to fill a vacancy candidate filling periods will be posted in a newspaper of general circulation and on the Town's website.

T. Special meetings shall be subject to RSA 31:5 and RSA 39:3 provided that no more than one (1) special meeting may be held to raise and appropriate money in one (1) calendar year or fiscal year, whichever applies, and further provided that any special meeting held pursuant to this Section shall not be subject to RSA 31:5 and shall not be counted toward the number of special meetings which may be held in a given calendar year or fiscal year.

U. The Council may make emergency expenditures in accordance with the provisions of the NH Municipal Budget Law (RSA32) as the same may be amended from time to time.

2.6 Certificate of Election and Appointment

Except as otherwise provided by law, before performing any act under this election or appointment, each person elected shall take and subscribe to an oath to qualify him to enter into the duties of the office. A record of the taking of such oath shall be made by the Town Clerk. Any oath required by this section may be administered by any officer authorized by law to administer oaths.

2.7 Term Commencement, Notice of Election or Appointment

A. Written notice of election or appointment to any Town Office or board shall be mailed to the individual involved by the Town Clerk, within three (3) calendar days after the appointment is made or the results of and votes certified by the Board of Election Officer to the Council.

B. Unless otherwise set forth in this Charter all elected officials in the Town shall take or continue in office on the first Monday following the second Tuesday in April following their election and shall hold office until their successors are elected and qualified.

2.8 General Qualification

Any person running for elective office shall file a declaration of candidacy declaring they are domiciled in the town and are a registered voter there.

ARTICLE 3

Town Council

3.1 Membership: Terms of Office

Except as otherwise provided in this Charter, all powers of the Town shall be vested in a Town Council (hereinafter sometimes referred to as "Council") of seven (7) Councilors. Councilors shall be elected on the second Tuesday of April for three (3) year terms. At least one Councilor shall be elected each year. Councilors shall be elected at large by plurality vote to staggered three (3) year terms.

3.2 Organization Meeting

The Councilors so chosen shall meet in their capacity as the Council within ten (10) days after the certification of the Annual Town Election. The purpose of the meeting includes taking their respective oaths of office, adopting rules and for the transaction of business required by law or ordinance to be transacted at said meeting. The Town Clerk shall act as the Clerk of the Council and the Moderator shall preside without vote at the first organizational meeting of the Council following the enactment of this Charter.

3.3 Selection of Chairman and Vice Chairman

The Council shall, by affirmative vote of at least four (4) members at its first regular meeting following the Annual Town Meeting elect a Chairman and Vice Chairman appoint a Secretary to the Board for the purpose of keeping a record of all Board meetings and fix the time and place of regularly scheduled meetings. The term of office shall be for one year. In the event of a vacancy occurring in the Office of Chairman, the Vice Chairman shall serve out the unexpired term. The Chairman shall be the official head of the Town for all ceremonial purposes, he shall preside at all meetings of the Council and may speak and shall vote at such meetings.

3.4 Qualifications of Councilors

A. Only voters who at all times during their term of office are and remain residents of the Town shall be eligible to hold the office of Councilor. To be eligible for election to the office of Councilor a candidate must be of voting age and must have been a resident of the Town for at least (1) year immediately before the election. The Council is the sole judge of qualifications for office. The Council shall declare a vacancy if a member is sentenced for having been convicted of committing a federal or state crime punishable by imprisonment for more than a year. Councilors may after investigation and hearing declare a vacancy if a member has missed one-third (1/3) of all meetings within a

calendar year without leave of the Council, has interfered with administration, falsified records, misapplied Town funds or property. 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 of Federal Law shall forfeit such office forthwith.

B. No employee of the Town shall be eligible to serve as a Councilor.

C. Any person elected to the Town Council shall immediately forfeit any office he held prior to such election.

3.5 Vacancies

When a vacancy occurs in any *elected* Town office, except the Town Council, unless otherwise provided for by Statute, the Town Council may appoint someone to serve in the vacancy until the next Annual Town Meeting.

When a vacancy occurs in the office of Councilor at any time it shall be filled by appointment, until the next regular election, by the Council within forty-five (45) days, by a vote of four (4) Councilors..

3.6 Salaries and Compensation

The Councilors shall receive compensation as approved by the Legislative Body. Councilors shall receive reimbursement for reasonable mileage, and expenses incurred in the performance of Town business outside the Town limits of Conway according to the rules of the Council.

3.7 Exercise of Powers, Meetings, Rules of Procedure

A. Exercise of Powers. Except as otherwise prohibited by law or this Charter, the powers of the Council may be exercised in a manner the Council determines.

B. A quorum of the Council for transaction of any business shall be four (4) members currently in office. However, a smaller number may adjourn the meeting.

C. Meetings. All meetings of the Council shall be public as required by the State's Right to Know Law (RSA 91:A) Regular meetings shall be held on such day or days of each month at such time as the Council shall determine. Special meetings may be called at the written request of the Town Manager or at least four (4) members of the Council and upon such request the Chairman of the Council shall call such special meeting. Written notice shall be provided to each Councilor at least twenty-four hours prior to the call of the meeting. The method of delivery for special meetings shall be established by Council rule. The meeting must be posted for the public.

D. Rules of Procedure. The Council shall establish rules for its proceedings not inconsistent with the Charter and State law. Every matter coming before the Council for action shall be put to a vote and all members shall vote aye or nay or abstain. The

results of such voting shall be duly recorded. All votes shall be recorded by roll call except votes on procedural matters. Votes on procedural matters shall be required by roll call vote where a member is participating remotely consistent with RSA 91-A:2,III(e).

3.8 Ordinances

A. An ordinance may be introduced by any member at a regular or special meeting of the Council. Upon introduction of any ordinance, the Town Manager, or his designee shall distribute a copy to each Councilor and to the Town Manager. The Town Manager shall file a reasonable number of copies in the office of the Town Clerk and post a copy in such other public places as the Council may designate.

B. Every proposed ordinance of the Council shall be introduced in writing and in the form required for adoption. No ordinance shall contain more than one subject, which shall be clearly expressed in its title. Each ordinance shall be identified by its number and short title. Any ordinance which repeals or amends an existing ordinance shall set out in full the ordinance, sections, or subsections to be repealed or amended, and shall indicate the matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

C. After passage of the ordinance's first reading, it shall be published at least once together with a notice of the time and place when and where it will be given a public hearing and be considered for final passage. The first such publication shall precede the date of said hearing by at least seven (7) calendar days. Publication for the purpose of this Section shall mean the publication of a notice in a newspaper of general circulation distributed in the Town of Conway as well as posting the notice in at least two (2) other public venues as the Town Council may designate. One of the public places may be the Town's website, stating the number and title of the ordinance and either the text of the ordinance in full or if full text is not published, then a brief explanation of the purpose of the ordinance and information as to where and when any interested person may obtain a copy of the complete ordinance. Final action on said ordinance shall not be taken by the Town Council until at least seven (7) calendar days after the public hearing.

D. Every adopted ordinance shall take effect upon passage and publication as an ordinance as required by law, or at a later date as specified in the ordinance. No ordinance shall be introduced and adopted during the same meeting.

E. All ordinances, including any amendments thereto, shall be recorded in full, uniformly, and permanently, by the Town Clerk. Each ordinance so recorded shall be authorized by affixing the signatures of the Council Chair and the Town Clerk and the Town Seal and kept on file in the office of the Town Clerk. The Town Clerk shall have the authority to digitize the ordinances, so they are readily available to residents of the Town. Printed copies may be made available for a fee.

3.9 Emergency Ordinances

Notwithstanding other provisions of this Charter, to meet a public emergency affecting life, health, property, or public peace the Council may adopt one (1) or more emergency ordinances, but such ordinances may not levy taxes, grant, renew, or extend a franchise, or authorize borrowing of money except as provided in section 3.10 of this Charter. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain after the enacting clause a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but an affirmative vote of four (4) Councilors shall be required for adoption.

3.10 Emergency Appropriations

To meet a public emergency affecting life, health, property, public peace, or to satisfy a court judgment, casualty loss, or other valid mandated expense, the Council, in accordance with RSA 32:11 and with prior approval of the Budget Committee, may make emergency appropriations as part of an emergency ordinance. To the extent that there are no available unappropriated revenues to meet such appropriations, the council may, by such emergency ordinance, authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals thereof occurring in any fiscal year shall be paid not later than the last day of the fiscal year next succeeding year in which the emergency appropriation was made.

3.11 Codification of Ordinances

The Town Council, at least every five (5) years thereafter, shall have prepared a revision or codification of the ordinances of the town which are appropriate for continuation as local laws of the Town.

3.12 Existing Ordinances

All bylaws, ordinances, rules, restrictions and regulations of the Town of Conway which are in effect as of the date of adoption of the Charter, shall remain in effect as of the date of the adoption of this Charter, until they expire by their terms or are repealed, modified or amended by the Council.

3.13 Powers and Duties

Except as herein otherwise provided, the Town Council shall have all the powers conferred upon and discharge all duties imposed upon Town Councils, except the adoption of a town budget, which prerogative is vested in the official ballot town

meeting. Section 9.2 of this document identifies all actions that must be placed on the ballot for the Annual Town Meeting. Any items not delineated in this section shall be the prerogative of the Council to vote upon. All officers and members of all boards, commissions and committees, and vacancies shall be appointed by the Council from among Town residents, unless otherwise provided by this charter. Other administrative boards and committees may be established as necessary by the Town Council.

3.14 Delegation of Powers

The Council may delegate to one or more Town agencies the power vested in the Town Council by this Charter and State and Federal Law to grant and issue licenses and permits and may regulate the granting and issuing of licenses and permits by any such Town agency, and may in its discretion, rescind any such delegation without prejudice to any prior action which has been taken.

3.15 Inquiries and Investigations

The Council, by majority vote may require of any Town official, department head or employee, appointed or confirmed by the Council or member of a Town board or commission to appear before it and give such information as it may require in relation to this office, its function and performance. The Council shall give at least forty-eight (48) hours' written notice of the general scope of the inquiry which is to be made to any person it shall require to appear before it under this Section. The Council may conduct an investigation into the affairs of the Town and into the conduct of any Town agency, department, and for this purpose may administer oaths and require the production of evidence.

3.16 Procedures for Appointed Boards and Commissions

Except as expressly prohibited by state law, all Town Boards and Commissions that are appointed by the Council shall adopt rules of attendance and forfeiture of office similar to those in Section 3.4 of this document.

Article Four

Administration of Government

4.1 Town Manager

The chief administrative officer of the Town shall be the Town Manager (hereinafter called the manager) The Council shall appoint a person especially qualified by experience and training who receives the votes of at least four (4) members of the Council to be the Manager. The Manager shall serve at the pleasure of the Council which shall fix the Manager's salary and negotiate with the manager a written contract specifying a term not to exceed five (5) years as well as salary and benefits package.

The contract may be renewed at the discretion of the Council.

4.2 Qualifications

The Manager shall be appointed solely on the basis of qualifications for that office, with special reference to education, training, and previous experience in public or private office. The Manager need not be a resident of the Town or State at the time of appointment but must be willing to live within 30 miles of the Town. The manager shall devote full time to the office and shall not hold any other public office, elective or appointive, except as authorized by this Charter or State law, not engage in any other business or occupation unless approved by a majority of the Council. The Council may reimburse the Manager for reasonable relocation costs in connection with establishing residence in the Town.

4.3 Reprimand or Removal from Office

The Manager may be reprimanded or removed for cause by the affirmative vote of at least five (5) members of the Council. At least thirty (30) days before the proposed reprimand or removal of the Manager, the Council shall adopt a resolution stating its intention, reasons and the effective date to reprimand or remove him. A copy of the resolution shall be immediately served to the Manager, who may, within ten (10) days, demand a public hearing, in which event the Manager shall not be reprimanded or removed until such public hearing has been held. In the event of removal from office, the Council shall, by affirmative vote of five (5) members, appoint the Assistant Town Manager as acting Town Manager to serve at the pleasure of the Council until **such** time as a new manager is hired. The actions of the Council in removing the Manager shall be final.

4.4 Annual Review of Town Manager

One (1) year after the initial appointment, and at least annually thereafter, the Manager shall be reviewed by the Council. As part of the annual review, the Council and the Manager shall mutually and in writing agree on goals and objectives for the Town and the Manager for the coming year, review the extent to which the Manager has succeeded in meeting the goals and objectives of the preceding year, and determine the reasons why any goals were changed or not met during the year. More frequent reviews may be conducted when, at the sole discretion of the Council, such periodic reviews are desirable.

4.5 Acting Town Manager

If the Manager is determined by a vote of at least four (4) members of the Council to be temporarily incapacitated or unable to act for any cause or the Council determines that the office has become temporarily vacant, the Council shall within thirty (30) days from such determination, appoint the assistant Town Manager in the same manner as in

Section 4.1 who shall serve for not more than ninety (90) days or such lesser time until the disability shall be relieved. The acting Manager shall have all the powers to perform all the duties of the Manager except to the extent that said powers and duties may be specifically restricted by Council resolution. The acting Manager shall be paid such salary for his services as may be prescribed by the Town Council. The acting Manager may be reappointed for an additional term of (90) days. At least four (4) Councilors must agree to extend the acting Manager. The Council may determine from credible medical or other evidence that the Town Manager is incapacitated and unable to perform all duties of the office; the office may be declared vacant.

4.6 Powers and Duties of the Town Manager

The Manager shall be the chief administrative officer of the Town and shall supervise and direct the administration of all the town departments and the personnel therein. The Manager shall have no authority to supervise Town elections. The Town Moderator is the Chief Elections Officer. The Manager shall be charged with the preservation of the health, safety, and welfare of persons and property and the enforcement of the ordinances of the Town, this Charter, and the laws of the State of New Hampshire, and such other responsibilities as may be assigned by the Council by resolution. The Town Manager shall report to the Town Council at least monthly on the office activities and finances. The Town Manager shall keep a full and complete record of the doings of his office and render to the Town Council an itemized monthly report in writing, showing in detail the receipts and disbursements for the preceding month.

The Manager shall perform duties as may be prescribed by this Charter or required of the Manager by ordinance or resolution of the Council, not inconsistent with this Charter. He shall have the right to take part in the discussion of all matters coming before the council, but not the right to vote.

Nothing in this Charter shall be construed to grant the Manager any legislative or judicial authority, which shall rest exclusively with the Town Council; nor shall the authority of the Manager reduce any specific statutory power or responsibility of any other Town officer.

4.7 Appointment of Department Heads, Suspension, Appeal

With the exception of the police department, which is overseen by a Police Commission and the Library which if overseen by an elected Board of Trustees, the manager shall have the power to appoint and remove subject to provisions of the Charter all town department heads. Such appointments shall be on merit and fitness alone and with confirmation of the Council. The Manager, for just cause may suspend or dismiss department heads or take other appropriate disciplinary action. Said suspension, dismissal or other disciplinary action shall be affected only upon presentation to the department head of a written specification of the reasons at least ten

(10) days before action is taken. The said department head involved may, within five (5) days, demand a hearing before the Council, in which event the department head shall not be removed until such a hearing is held. The Manager may, however, suspend said department head from duty during said period, with or without pay. Such a hearing shall be either private or public, as allowed under RSA Chapter 91-A, at the aggrieved party's request. The Council by vote of four (4) members may override the manager's decision.

4.8 Non-interference with the Town Manager

Except as expressly provided elsewhere in this Charter, neither the Council nor any of its members shall direct or request the appointment of a person to office or employment; or direct the removal, suspension, discipline, adjustment in pay, benefits, or working conditions of any employee by the Manager or of any of the Town department heads. No Councilor shall give orders to or interfere with the performance of the duties of any administrative officers or employees, publicly or privately. Nothing contained in this section shall prohibit the Council from meeting with the Manager to discuss the operation or conduct of any department head or employee and to recommend an investigation and report by the Manager of any complaint. Any violation of the provisions of this section by a Councilor shall constitute grounds for forfeiture of office pursuant to RSA 49-D:4.4.9

4.9 Departments

The administrative services of the Town shall, by ordinance, be divided into such other 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 Town Council may, by amendment to the Administrative Code Ordinance, create, consolidate, or abolish departments or agencies and define or alter their functions or duties. The head of each department or agency established by the Administrative Code shall have and exercise supervision and control of his department or agency and the employees therein, subject to the authority of the Manager, and shall have the power to prescribe rules and regulations not inconsistent with general laws, the Charter, the Administrative Code and the rules and regulations of the Personnel Plan; provided that the Manager shall establish a progressive disciplinary code for all departments and agencies which shall be included under Section 6.2. A copy of all departmental and regulations promulgated under this section shall be on file in the office of the Town Clerk and appropriate departments.

4.10 Assistant Town Manager

From time to time the Town Council may determine it is in the best interest to hire an Assistant Town Manager. The Council shall develop a job description with specific duties outlined, determine the length of time the position shall be filled, establish a salary

schedule, and provide for a performance review. If an Assistant Town manager has been hired, he may become the Acting Town Manager in case the town manager has become incapacitated. Section 4.5 outlines the duties of the Acting Town manager, and the Assistant Manager shall fulfill those duties.

4.11 Town Clerk/Tax Collector

There shall be a Town Clerk/Tax Collector who shall be elected on an at-large basis at the Town election for a three (3) year term. The Town Clerk/Tax Collector shall have the powers and duties prescribed by this Charter and State law, and shall furnish bond as required, provided the Town shall pay the cost of the bond. The Town Clerk/Tax Collector may appoint a Deputy with the approval of the Town Council. Salary and benefits will be determined by the Town Council.

4.12 Town Attorney.

The Town Council shall engage as needed such attorneys as are deemed in the best interest of the Town to provide legal advice to the Council, Manager, Town departments, boards and other agencies and represent the Town in any legal proceedings. Such attorneys shall on Council direction perform any other duties prescribed by this Charter or by ordinance.

4.13 Fiscal Affairs, Town Treasurer

A. The Town Treasurer shall be elected at large for a term of three (3) years and shall perform all the duties required by New Hampshire State Law and shall furnish bond as required, provided the Town shall pay the cost of the bond. The Treasurer shall also perform the following duties: Keep the Council's payment books and receive all monies. The town treasurer shall keep all records at appropriate offices designated by the Council. The Town Council shall appoint a deputy Treasurer.

B. The Town Manager shall be responsible for the collection, accounting, deposits and periodic reporting of all town revenues and expenditures in a secure and business-like manner in accordance with generally accepted accounting practices.

C. The Town Council, after inviting requests for proposal and appropriate verification of qualifications, experience and integrity, shall select a Certified Public Accountant or firm who shall perform an annual audit of all Town financial transactions. Said audit shall include all revenues, expenditures and accounts maintained by any officer, elected or appointed, agency, board, commission, or recipient of Town funds; may include compliance audit to ensure conformity with any State or Federal laws and town work projects and policies; and shall include a management letter setting forth recommendations for changes and improvements in finance management systems as is deemed necessary. For purposes of cost and efficiency, an auditor may be retained for a period of years, but requests for proposal shall be sought at least once every five (5)

years. Nothing contained herein shall prohibit the Town Council from ordering an entire audit, partial audits or interim audits more frequently than once per year as it may deem prudent. Summaries of annual audits, when available in a timely manner, shall be printed in the annual Town Report and complete copies shall be available for public inspection and copying in the Town Office during normal business hours. If a summary of an annual audit is not available for printing in the Town Report, the said summary shall be made available as soon as practicable and shall be posted on the town website.

4.14 Trustees of the Trust Fund

The three (3) Trustees of the Trust Fund shall be elected at large to staggered three (3) year terms. The Trustees are responsible for the prudential management of all investments made by the Town and hold and exercise all duties, rights, and obligations of said office under New Hampshire law. The Trustee's of the Trust fund shall provide a yearly report to be published in the Annual Town Report.

ARTICLE FIVE

Finance

5.1 Fiscal Year

The fiscal and budget year of the Town shall begin on the first day of January and end on the thirty-first day of December, unless other dates shall be fixed by the action of the Town council.

5.2 Budget Procedures

A. The Town Council shall provide the Manager with preliminary guidance on expectations for the ensuing year's budget not later than June 30th. The Library Trustees and the Police Commissioners will provide preliminary guidance to the Library Director and the Chief of Police. The preliminary guidance should be coordinated between these three entities.

B. The Town Manager, the Library Director and the Chief of Police shall submit an itemized estimate of expenditures and revenues for the next fiscal year for the departments under their control. The Manager shall consolidate all three budgets and present them to the Town Council not later than November 1

st. The Council shall review the budget for the following fiscal year and make such modifications and amendments as it desires. After such review, the Council shall submit the proposed budget to the Budget Committee, but no later than December 15th. Subsequent actions shall follow the Municipal Budget Act. The Conway School District and those Village Precincts whose boundaries are wholly within the town shall submit their budgets directly to the Budget Committee based on dates determined by the Budget Committee.

5.3 Budget Hearings

The Budget Committee shall follow procedures in RSA 32 in presenting information at Budget Hearings and at the First Session of the Town meeting. A default budget shall be prepared by the Budget Committee and present it at the Deliberative session. The Budget Committee shall calculate total spending requested and recommend in the Town Budget, School Budget and all monied Articles and present the combined total and its projected impact at the deliberative session for both the Town and the School.

5.4 Final Date for Budget Adoption

The operating budget shall be brought before the Town meeting on the second Tuesday in April, unless another date shall be fixed by the Council. The Official ballot shall contain the operating budget for the Town of Conway to include all town departments, the police department and the library. Additionally, election costs, maintenance of town buildings, ambulance service, fire and emergency management, patriotic purposes, conservation and Interest on Tax Anticipation Notes. Special articles shall be placed on the official ballot and voted on separately.

5.5 Monthly Budget Reports, Reductions

At the beginning of each quarterly period during the fiscal year, and more often if required by the Council, the Manager or his designee shall submit to the Council data showing the relations between estimated and actual income and expenses to date, together with outstanding indebtedness and estimated future expenses; and it shall appear that the income is less than anticipated, the Manager, with Council approval, may reduce appropriations for any item or items in the budget, except amounts required for debt, interest charges and other fixed costs to such a degree as may be necessary to keep expenditures within the cash income. The Library Director and the Chief of Police shall be responsible for presenting the information to the Council on their budgets. At any time, the Manager may provide monthly or quarterly allotments of appropriations to departments, funds or agencies under such rules as he shall prescribe.

5.6 Transfers

After the budget has been adopted, no money shall be drawn from the treasury of

the Town nor shall any obligations for expenditure of money be incurred except in pursuant to a budget appropriation. The head of any department, with the approval of the Manager may transfer any unspent balance or any portion from one fund or agency within his department. The Manager, with the approval of the Council, may transfer any unspent balance or any portion thereof from one department to another. The Library Trustees and the Police Commissioners shall follow these same guidelines.

5.7 Capital Improvement Plan

A. The Town Council shall prepare a capital improvement plan at least one (1) month prior to the final date for submission of the budget. The Capital Improvement Plan shall list all projected Capital Improvements for the next ten (10) years and shall refer to and be influenced by the Master Plan. The plan shall include any item that will need to be bonded for it to be completed. This includes such facilities as a new Police Station, purchase of a facility or open land etc. The capital improvement plan will be updated each year and if the voters have approved a capital item the projected cost per year will become part of the Town Report. The Council shall appoint a Capital Improvement committee of seven to include a Town Councilor, a Planning Board member and a Budget Committee member.

5.8 Lapse of Appropriation

Every appropriation, except an appropriation for capital expenditure or dedicated funds shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned, except as provided by State Law relative to Conservation Commission funds.

5.9 Bonding of Officials

Any Town official elected or appointed by authority of the Charter shall be bonded in an amount required by State Law or dictated by prudent fiscal practices for the faithful performance of the duties of his office. The Manager and all officers receiving or disbursing Town funds may be bonded. All official bonds shall be corporate surety bond, and the premiums thereon shall be paid by the town. Such bonds shall be filed with the Town Clerk. The Town Council shall determine whom shall be bonded.

5.10 Purchasing Procedure

The Administrative Code shall establish purchasing and contract procedures, including the assignment of all responsibility for purchasing to the Manager or his designee, and the combination purchasing of similar articles by different departments. The Council shall establish specifications and dollar limits for purchases which must be made by competitive bid and shall establish the bidding procedure. No competitive bids shall be required when purchasing through the State of New Hampshire or at State of

New Hampshire bid prices. Requirements for bids may be waived in specific instances by a vote of four (4) members of the Council. The Council shall establish specifications and dollar amounts for purchases and contracts, over which no purchases shall be made, or contracts entered into without the affirmative vote of the Council. If the Council has voted to make a purchase or enter into a contract the Manager shall carry out the vote of the Council and enter into said transaction on behalf of the Town.

ARTICLE SIX

Personnel Policies

6.1 Appointments

Appointments and promotions to all positions in the service of the Town, other than those covered by an employee representative contract (union contract), shall be made solely on the basis of merit and only after consideration of the applicant's ability in accordance with procedures set forth in the Personnel Plan.

6.2 Personnel Plan

There shall be a set of rules and regulations providing for the establishment of a system of personnel administration known as the "Personnel Plan". The Plan shall include provisions with regard to classification, compensation, selection, training, promotion, grievances, discipline, vacations, retirement, and any other matters necessary to the maintenance of efficient service and proper working conditions. The Personnel Plan shall continue in force subject to amendments submitted from time to time by the Manager, which shall become effective one month after submission unless vetoed by the Council within that period. The Personnel Plan shall not apply to any elected officials, board and commission members and other officers appointed by the Council. Each employee shall be provided with a written job description prepared by the Manager and subject to Council review.

6.3 Compensation

A. The compensation of all elected and appointed officials and department heads, non-union members, shall be modified by express resolution of the Council.

B. The rate of compensation of Council members may only be changed by a vote of the legislative body and shall not take effect until the first day of the next fiscal year.

ARTICLE SEVEN

Conduct of Officials

7.1 Conditions for Holding Office

Any person while in Town office who receives a sentence for a felony conviction in New Hampshire or its equivalent under the law of any other State or federal law shall forfeit such office.

7.2 Conflict of Interest

The Town Council shall develop a Conflict-of-Interest Policy. All elected Town officials and any Department Heads so designated shall sign this policy on a yearly basis. Violations of the Conflict-of-Interest Policy may result in removal from office or if employed by the Town a reprimand.

7.3 Disqualification from Decision Making Process

A. No elected or appointed officer or employee shall take part in a decision concerning the business of the Town in which he or a member of his family (spouse, his or her lineal descendants and his or her spouse's siblings and their offspring) directly or indirectly, has a financial interest aside from his salary such officer or employee, greater than any other citizen or taxpayer.

7.4 Private Use of Town Property and Personnel

No elected or appointed officer or employee shall devote any Town property or labor to private use except as may be provided by authority of the Council.

7.5 Acceptance of Gifts and Gratuities

No elected or appointed official 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 official duties.

7.6 Disposition of Fees

No elected or appointed officer or employee of the Town shall collect any fees, salaries or other payments in connection with his official duties for his own use, except as provided for by ordinance or State law.

7.7 Misuse of Information

No elected or appointed officer or employee of the Town shall utilize or dispense information gained through said office or employment for his or another's personal profit.

ARTICLE EIGHT

Citizen Concerns; Initiative Petition; Referendum

8.1 Citizen Concerns

A. Individual citizen concerns shall be directed to the Manager to be relayed to the appropriate department(s) or individual(s) for consideration. Acknowledgement of the concern(s) shall be made to the citizen directly or in writing.

B. Any citizen wishing to appear before a regularly scheduled Council meeting shall request to be placed on the agenda in accordance with the rules of the Council. Citizens may also speak to the Council during Public Comment periods.

8.2 Initiative Petitions

A. The Council shall hold a public hearing and act, by taking a vote, on the merits of every initiative petition which concerns a matter in which the Town is empowered to act. The petition shall be addressed to the Council, shall contain a request for passage or repeal of a particular measure set forth in the petition, and shall be signed by not less than twenty-five (25) registered voters.

The Supervisors of the Checklist shall verify the number of registered voters signing the petition and shall attach thereto a certificate showing the result of such examination. Within seven (7) days the Supervisor of the Checklist shall transmit the petition and the certificate to the Town Council and shall send a copy of the certificate to the first signer of the petition.

The petition shall be considered valid following certification of sufficiency unless written objection regarding the number of signatures certified is made by a voter no more than seven (7) days after the certificate has been issued. The validity of any such objection shall be determined by the Council.

B. The Council shall hold a public hearing within thirty (30) days of the date of the certification of any measure proposed in any petition signed by twenty-five (25) voters, unless a question of its legality is raised by a member of the Council. If a question of legality is raised by any Councilor, the measure shall be referred to the Town Attorney for review. If the measure proposed may be lawfully passed by the Council, the public hearing shall be scheduled within thirty (30) days of the date of the Attorney's opinion. If the measure may not be lawfully passed by the Council, it shall be returned to the petitioners with an explanation. The Town Clerk shall mail notice of the hearing to ten (10) petitioners whose names appear first on each petition at least seven (7) days prior to the hearing. Notice by publication of a summary of the contents of the petition at least seven (7) days prior to all such hearings shall also be made and shall be at public expense.

Hearings on two (2) or more petitions filed under this Section and addressing different substantive issues may be held at the same place and time. No hearing shall be held upon more than one (1) petition containing the same subject matter in any given twelve

(12) month period.

C. Following the public hearing, the Council may: (1) pass said measure without alteration or amendment, or (2) deny said measure with stated reason.

ARTICLE NINE

Town Report; Town Meeting

9.1 Town Report

Each year the Town Manager shall prepare a Town Report which at a minimum shall include:

- (1) The statement of the past year's financial activities and a comparative statement of the previous and present budget
- (2) Review of all major council actions, including a summary of ordinances enacted.
- (3) Town Vital Statics
- (4) There shall be a section which presents any actions which are in progress or pending before Town Boards or departments and the Town Council.
- (5) The effective date of the report shall be the end of the fiscal year and the report shall be made available to the voters of the Town no later than seven (7) days prior to the date of the Annual meeting.

9.2 Official Ballot Town Council

A. Except as herein otherwise provided, the Town Council shall have all the powers conferred upon and discharge all the duties imposed upon Town Councils, Town Meetings, Boards of Mayor and Aldermen, and Selectmen of towns by law, except those matters that shall be vested in an Official Town Meeting as follows:

B. Notwithstanding RSA 39:3-d and RSA 40:4-e the Town shall utilize the official ballot for voting all budgetary issues before the voters.

C. The Town Council shall have the authority to approve any bonds or notes up to two (2,000,000) million dollars. A minimum of five (5) positive votes is required. If the Council does not meet this requirement the bond issue may be placed on the ballot for the next Annual Meeting. All other bonds or notes shall be placed on the official ballot. Bonds placed on the official ballot require a 3/5th vote of those casting ballots to pass.

D. Union Contracts shall be voted on at the Annual Meeting

E. The Council may choose for non-profit requests to place one article on the ballot or incorporate them into the budget if for the prior three (3) years the request had been approved by the voters. Non-profits shall petition the Council. Twenty-five (25)

registered voter signatures are required. Any non-profit article the Council disapproves of shall be placed on the ballot as a separate Warrant Article. If a non-profit request is a three (3) percent increase or more, it shall be placed on the Warrant. A non-profit that is requesting funding for the first time shall present a petitioned article consisting of twenty-five (25) signatures which shall be placed on the Warrant.

F. Zoning changes shall be placed on the ballot for a vote.

G. The Council shall have the authority to approve subdivision roads that meet Town standards to become a Town road. A petition of twenty-five (25) registered voters shall be presented to the Council for their decision. If the Council chooses not to accept the roads the petitioned article shall be placed on the official ballot as a separate warrant article.

H. The Council shall have the authority to purchase real property for the benefit of the Town. The Council shall have the authority to sell real property and equipment owned by the Town. The provisions of this paragraph do not require official ballot vote by the Town Meeting.

I. Articles for Capital Reserve Accounts are to be incorporated into the budget process by way of a special warrant article.

9.3 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 as determined by the Town Moderator and may be amended or changed by vote of the legislative body.

ARTICLE TEN

General Provisions

10.1 Vacancies

In addition to other provisions of the Charter, a vacancy shall be deemed to exist in any department, office or board whenever an officer member or employee dies, resigns, is removed for just cause, is permanently physically or mentally incapacitated to the degree he is unable to perform his duties, is judicially declare to be mentally incompetent or, for Board members where residence in the Town is required, he moves from Town. Unless otherwise provided in this Charter, vacancies occurring under this section shall be declared to exist by the Council for board members, the Manager for department heads, and by the department heads for departmental personnel.

10.2 Public Records and Meetings

All records of the Town and all meetings of the Council, boards, committees,

commissions, authorities or other municipal bodies shall be open to the public, and their minutes and other records shall be available to the public in accordance with the Right to Know Law, as amended. Robert's Rules of Order shall be followed unless and until the Council, Boards, Committees, and Commissions replace or revise them at their organizational meeting.

10.3 Agreement with other Municipalities and Precincts

The Town Council is authorized, as provided by New Hampshire law, to enter into agreements and regional compacts with neighboring cities and towns, state agencies, precincts, school district or non-profit corporations for the purpose of resolving their common problems for the mutual advantage and benefit of the Town and its neighboring cities and Towns.

10.4 Specific Provisions to Prevail

To the extent that any specific provision contained in this Charter conflicts with any provision expressed in general terms the specific provisions shall prevail.

10.5 Severability

The Sections of this Charter and the parts thereof are separable. If any portion or section of this Charter or application thereof to any person or circumstance shall be held invalid by a court or competent jurisdiction, the remainder of the Charter shall not be affected. If a clause, portion or section of this Charter is so held invalid, then the applicable provisions of State law, if any, shall prevail.

10.6 Authentication of Charter, Copies to be Kept on File

Upon adoption, the official Charter, duly authenticated by affixing the signatures of all members of the Charter Commission and the Board of Selectmen, the Town Clerk and affixing the Town Seal, shall be filed with the Town Clerk and remain in the Town Clerk's office as the official Charter of the Town of Conway. At its first meeting the Town Council shall affirm the validity of the Town Charter. All amendments to this Charter shall be authenticated by the Town Council and be filed with and remain part of the Official Charter. The Town Clerk shall be responsible for the proper maintenance of the Charter, under the direction of the Legal Officer. Copies of the Charter shall be available to the public and the Town Clerk may charge a fee to defray printing costs. The Charter will be posted on the Town's website.

10.7 Charter Amendments

Amendments to this Charter may be initiated either by the Council or by initiative petition, public hearing, and voter election pursuant to New Hampshire RSA 49-B:5.

10.8 Violations and Penalties

All willful violations of the provisions of this Charter, unless otherwise provided, are hereby declared violations and all such violations of town ordinances for which no other punishment is provided shall be punishable by fine in accordance with State law.

10.9 Rules and Regulations

A copy of all rules and regulations adopted by any Town agency, board, commission or individual shall be filed in the office of the Town Clerk and made available for review. All rules and Regulations shall be posted on the Town website.

10.10 Reorganization Plans

Except for those agencies established by this Charter or as otherwise prohibited by State law, the Council may reorganize, consolidate, or abolish existing Town agencies in whole or in part; establish new Town agencies and prescribe the function of any Town agencies provided that such action shall not eliminate the statutory duties of Town officials. Any Village Precinct or District, whether in whole or in part within the borders of the Town of Conway, upon a vote of its residents, shall be dissolved and its duties and functions assumed by the Town and its appropriate Departments, in accordance with state statutes.

10.11 Proposed Reorganization Plans by the Manager

The Manager may prepare and submit to the Council for their approval proposed reorganization plans which may, subject to applicable laws and this Charter, recognize and consolidate or abolish any Town agency in whole or in part, or establish new Town agencies as he deems necessary or expedient. Such reorganization plans shall be accompanied by an explanatory message when submitted.

10.12 Indemnification of Town Officers, Board Members and Employees

Town shall undertake to indemnify and save harmless all its current and former officers, officials, volunteers, boards, commissions and employees from personal loss and expense. Including reasonable legal fees and costs, if any arising out of any claim, demand, suit or judgment by reason of negligent acts or omissions if the indemnified person was acting within the scope of his office or employment and in good faith in accord with the provisions of State law.

10.13 Prohibition

A. No person shall be appointed or removed from, or in any way favored or discriminated against with respect to any Town position or appointed Town administrative office because of age, race, sex, political or religious or affiliations, disability, color, national origin, marital status or sexual orientation.

B. No person shall willfully make any false statements, certificate, mark, rating or report regarding any test, certification or appointment.

C. No person who seeks appointment or promotion with respect to any Town position or appointed Town administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.

10.14 Procedures

A. Meetings. All properly constituted authorities, boards, commissions, committees or other municipal bodies (hereafter called committees) of the Town whether elected or appointed or otherwise constituted, shall meet regularly at such times and public places within the Town as they prescribe. Except in emergencies, special meetings of these committees shall be held on the call of the respective chairman or by one third of the members thereof by written notice delivered to the residence or place of business of each member at least forty-eight (48) hours in advance of the time set. Email to the members is also allowed. A copy of said notice shall also be posted on the town(s) bulletin board or on the Town website. Except in cases of emergency otherwise authorized by the general laws, all meetings shall be open to the public; however, these committees may meet in closed or executive session as permitted by the Right to Know Law.

B. Committee Organization. Each committee, in accordance with the Committee's procedures, shall determine its own rules and order of business unless otherwise provided by the Charter or by law. The agenda and minutes shall be kept as required by the Right to Know Law. A chairman and secretary shall be elected annually in accordance with the committee's rules of procedures.

C. Quorum. A majority of the members of a committee shall constitute a quorum, but smaller numbers may adjourn from time to time until a quorum is achieved. No other action taken by the number of members smaller than the quorum shall be valid and binding.

D. Council. The provisions of Section 3:16 shall not apply to the Council to the extent that they are inconsistent with other provisions of this Charter.

10.15 Land Use Ordinances

All land use regulations and ordinances, including the adoption of zoning ordinances and amendments by referendum must be adopted pursuant to State law.

ARTICLE ELEVEN

Administrative and Judicial Boards

11.1 Administrative Committees

A. 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.

B. Budget Committee

The Budget Committee shall consist of a total of thirteen (13) members, nine (9) members will be elected at-large. In addition to the elected members the Budget Committee shall include one (1) member chosen by the School Board or 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 of Conway to be designated by the Board of Commissioners, if a precinct or Village District dissolves the seat will become an at-large position to be filled at the next election and one (1) member of the Town Council to be designated by the Council with all members to hold and exercise all duties, rights and obligations of said office under New Hampshire State Law. Appointed members of the Budget Committee may be represented at any meeting by an alternate School Board member, Board or Commission member or Town Council designated by the respective Board with said authority as the chosen member. Members of the Budget Committee will be elected to staggered three-year terms. Elected committee member vacancies will be filled by the Budget Committee. Elected members of the Budget Committee will serve staggered three-year terms.

C. Conway Conservation Commission.

The Conway Conservation Commission shall be invested with the powers and duties set forth in RSA Chapter 36-A, as amended, and shall cooperate with the Town Council 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 seven (7) voting members including a member designated from the Town Council who shall be ex-officio voting member, and a member of the Planning Board who shall be ex-officio voting member. The seven (7) 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 Council may appoint up to seven (7) alternate members for staggered terms of three (3) years each provided the Council shall appoint from among their number an alternate to serve upon the absence of the Councilors acting ex-officio member. 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 Council's alternate shall only be appointed to act for the absent Councilor. Any member so appointed may, after a public hearing, if requested,

be removed for cause by the Town Council.

D. Conway Planning Board

The Conway Planning Board has been established pursuant to RSA 673:1 and shall continue as vested with but not limited to RSA 674 Local Land Use Planning and Regulatory powers. The Planning Board shall consist of seven (7) voting members with one (1) member to be a designated Councilor 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 (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 Council shall appoint from among their number an alternate to serve in the absence of the Council 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 Council's alternate shall only be appointed to act upon the absent councilor. In all respects, the Planning Board shall act pursuant to State Statutes. The existing regulations and by-laws of the Planning Board shall remain in full force and effect but may be amended from time to time.

E. Police Commission

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 Annual Meeting of March 12, 1968, and shall continue as now invested with the same powers and duties as there under 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. RSA 105-C:1 now governs Police Commissions.

There shall be a Police Commission for the Town of Conway consisting of three people elected as hereinafter provided. Said Commissioners shall have been residents of the Town for at least three (3) years immediately preceding the date of their election and shall not hold nor be a candidate for any other political office in 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 (3) years. Any vacancy in the Commission shall be filled by appointment by the remaining members of the Commission. Such an appointee shall hold office until the next annual meeting of the Town.

Powers and Duties

- (a) The Police Commission shall appoint such police officers, constables and superior officers as it may, in its judgment, deem necessary and fix their compensation and shall appoint the Animal Control Officer.
- (b) 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.

- (c) Commissioners shall have the authority to remove any officer at any time for just cause and after due hearings, 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.
- (d) Compensation: The salary for each Police Commissioner shall be set from time to time by the Legislative Body.

F. Historic District Commission

Pursuant to RSA 673:4, a Historic District Commission consisting of seven (7) members is to be appointed by the Town Council. One Commission member shall be a member of the Town Council and one Commission member may be a member of the Planning Board.

G. Meeting of the Chairman

At least annually and more often if town affairs warrant, the Town Council shall hold a meeting with all the chairman, or designated representative, of all standing Town committees to review significant actions taken by them, projects currently under discussion, and anticipated activity for the coming year.

H. School Board

At least annually the Town Council shall invite the School Board Chairman to meet with the Council.

11.2 Judicial Board: Zoning Board of Adjustment

The Zoning Board of Adjustment has been established pursuant to State Statute and shall continue as now and invested with the same powers and duties as designated by State Statute as amended. The Zoning Board of Adjustment shall consist of four (4) voting members elected at large for staggered three (3) year terms. The Town Council shall appoint one of its members to serve on the Zoning Board of Adjustments and shall be a voting member. The Council shall be entitled to appoint up to five (5) alternate members with the advice of the elected members of the Zoning Board of Adjustment. On absence of any Zoning Board of Adjustment regular member, the Chairperson may appoint an alternate member to act in place of the absent member.

11.3 Terms of Office

The terms of office, all members of appointed boards shall begin upon appointment, and end when their term expires. In accordance with RSA 42:1 and RSA 42:8 prior to holding office all elected and appointed officials must make and subscribe the oath or declaration as prescribed by Part2, article 84 of the Constitution of New Hampshire.

11.4 Vacancies in Elected Office

Unless otherwise specified in the Chapter, in the event of a vacancy in an elected board, committee or commission of the Town, the Council shall fill that vacancy by appointment, such appointment to continue until the next Town election.

ARTICLE TWELVE

Transitional Provisions

12.1 Continuation of Government

All members of Town agencies, except for those abolished by this Charter shall continue to perform their duties until reappointed, reelected, or until successors to their respective positions are duly appointed, or elected or their duties have been transferred. The Council shall take whatever measures are necessary to affect an orderly transition and shall take whatever actions are necessary to enable such transitions in office to comply with the provisions of this Charter.

12.2 Continuation and Compensation of Personnel

A. Until expressly changed after the effective date of this Charter, the compensation of all officers, department heads and employees of the Town shall be the same as the year prior to the Charter taking effect.

B. Any person holding an office or position in the administrative service of the Town, or any other person serving in the employment of the Town shall retain such office or position and shall continue to perform the duties until provisions shall have been made in accordance with the Charter for the performance of said duties by another person or agency; provided, however, that no person in permanent full-time service or employment of the Town shall forfeit their pay grade or time in service. All such people shall be retained in a capacity as similar to their former capacity as is practicable.

12.3 Transfer of Records and Property

All records, property, and equipment of any Town agency, the powers and duties of which are assigned in whole or in part will transfer to another Town agency to which such powers and duties are assigned.

12.4 Effect on Obligations, Taxes and other Legal Acts

All official bonds recognized, obligations, contracts and other instruments entered into or executed by or to the Town before the adoption the Charter; all taxes, special assessments, fines, penalties, forfeitures incurred or imposed, due or owing to the Town, shall be enforced and collected, all writs, prosecutions, actions and cause of action, except herein otherwise provided, shall continue without abatement and remain

unaffected by the Charter; and no legal act done by or in favor of the Town shall be rendered invalid by the adoption of the Charter.

12.5 Budget Committee Transition

Beginning in 2025, and ending in 2027, there will be a transitional period for the Budget Committee. To achieve the number of elected Budget Committee members presented in this charter there will be three (3), three (3) year seats elected each year. Any current member may serve out their term. Should any precincts who have a standing seat on the budget committee cease to exist during this transition period, an additional seat will be added to the following election.

12.6 Effective Date

This Charter shall take effect upon the certification of the adoption of the Charter. Prior to that date, the Selectmen shall prepare for the transition to the new form of government.

12.7 Abolition of the Board of Selectmen

Effective immediately upon election of a full Town Council being certified, the Board of Selectmen will be abolished.

12.8 First Election

This subsection applies only to the first election of Councilors at the election which will be held the second Tuesday June (June 11, 2024). All Selectmen currently holding office shall continue as Councilors until the expiration of their current term, including those two selectmen elected in April of 2024.

The Town shall conduct the first election under this Charter on the second Tuesday of June 2024 to elect Town Councilors for the following terms: One Councilor for a one-year term to expire in April of 2025, and One Councilor for a one-year term to expire in April 2025.

12.9 Conducting First Election

All elected officers holding office prior to and at the time of the first election held under this Charter shall conduct such elections and shall have all the powers granted to them under State law for such purposes and shall have all the powers that are granted their successors under this Charter which are necessary to properly conduct said first election.

Chapter 72. Housing Standards

72-1. Authority. NH RSA Chapter 48-A:1 through 48-A:12 was adopted 3/9/1965 by the Annual Town Meeting (article 4), to establish Housing Standards for the Town of Conway

72-2. Purpose. The purpose of this chapter is to

- A. Outline basic standards for all housing in the Town of Conway
- B. Provide a system by which the Town will institute a required Certificate of Rental Compliance for all rental properties in town.

72-3. Applicability. The requirements of this Chapter apply to all housing in the Town of Conway, however inspection for compliance will only occur for those properties that are either:

- A. Under construction for which a building permit has been applied for, approved and issued.
- B. Rented for any duration (including short term, long term, and seasonal rental properties) and any building configuration (single family homes, duplexes, multifamily homes, group homes, or any other type of structure that is used for overnight accommodations).

72-4. Regulations. Pursuant to Section 48-A:8, the Town of Conway establishes the following housing standards.

A. **1- and 2- Family Home Standards**

- 1) Address visibility: The address number shall be legible and visible from the street or road frontage of the property. Address number shall contrast with the background. Numbers shall not be spelled out. Each character shall be no less than 4 inches in height with a stroke width of not less than 0.5 inches
- 2) Smoke Alarms: Smoke alarms must be compliant with the NH Department of Safety Office of the State Fire Marshal Bulletin # 2020-05 "Smoke Alarm Device Requirements in Dwellings" or any superseding bulletins or code updates.
- 3) Carbon Monoxide Detectors: Must be present on each level.
- 4) Means of Egress: All occupiable areas of the home must have at least one means of egress and one means of escape that must be compliant with the NH Department of Safety Office of the State Fire Marshal Bulletin # 2020-03 "Secondary Means of Escape – Egress Windows & Doors" or any superseding bulletins, or code updates and HUD standards for manufactured homes.

- 5) Heating Appliance Maintenance: Have gas and oil heating appliances been serviced within the last 24 months?
- 6) Wood Stoves and Chimneys: Must be compliant with checklist in Appendix 3
- 7) Electrical System: Must be compliant with checklist in Appendix 4
- 8) Fire Extinguishers: At least one 1A:5BC fire extinguisher available.
 - a) Fire extinguisher must have pressure gauge present and in green range
 - b) Fire extinguisher tank must be hydro compliant
 - c) Fire extinguisher must have no visible damage
 - d) Fire extinguisher shall be mounted near the exit
- 9) Fire Pits: Must be installed and utilized according to RSA 227-L “Woodland Fire Control Permits, Prohibitions, and Penalties” and require a burn permit applied for by the occupant who is utilizing the fire pit and issued by the local forest fire warden or fire department.
- 10) Grills: If present, charcoal grills, gas grills, and wood pellet cookers are compliant with the NH Department of Safety Office of the State Fire Marshal Bulletin # 2020-08 “Grilling Safety at Multi-Unit Dwellings and One- and Two-Family Dwellings” or any superseding bulletins or code updates and they may not be placed on any combustible surfaces (for example but not limited to wood decking, composite decking, etc.) The grill must be at least 3 feet from the structure.

B. Multifamily Housing Standards.

- 1) Multifamily Housing in the Town of Conway shall comply with the current edition of the Life Safety Code, NFPA 101 as adopted by the State of New Hampshire and the multifamily section of any applicable NH Department of Safety Office of the State Fire Marshal Bulletins or any superseding bulletins or code updates.

C. Mixed-Use Occupancy Standards

- 1) Reserved

72-5. Applying for a Certificate of Rental Compliance (CRC).

A. Rental property owners shall apply for a Certificate of Rental Compliance (CRC) for all rental properties using the form in Appendix 1. This application and the CRC is specific to the owner and property together.

B. Each site with a single owner, regardless of the number of units, will receive a single CRC.

1. Owners who own multiple separate properties will need a CRC for each property.
2. Mobile home parks or condominium associations with a single owner of all units shall have a single CRC.

C. Any property that has received a Certificate of Occupancy (CO) due to the recent completion of construction will automatically receive a CRC dated with the same date as the issuance of the CO and lasting for 3 years.

D. Any property who received a CO within 3 years of April 09, 2024 can receive a CRC without further inspection or fees that will be good for 3 years from the date of the Certificate of Occupancy.

72-6. Application and Inspection Process:

A. Application and Inspection Scheduling: An owner or authorized owner's representative of a rental property applies for a CRC by submitting the form in Appendix 1 to the Conway Town Hall code compliance Department. A completed application and fees received will render the property in compliance. The code compliance Department will review the written application and will respond within 10 business days with any questions or concerns regarding the application if they exist. If there are no questions or concerns, or after any questions or concerns are clarified, the Town will reach out to the owner and appropriate Fire Chief to schedule an inspection. Inspections shall be scheduled at least 2 weeks in advance and shall be done with respect to tenant and landlord schedule limitations. The inspection should be scheduled within 2 months' time.

B. Inspection Process: At the time of the inspection, the landlord or an owner's representative shall be present. The checklist included in Appendix 2 shall be used to assess the property for compliance with the housing standard regulations included in this chapter. If the landlord or owner's representative is present for the inspection, then they will be made aware verbally of anything that does not pass inspection at the time of inspection.

C. Post-Inspection Report and Issuance of CRC: After the inspection is complete, the inspecting fire department will create a written report within 10 business days indicating the property has passed inspection or indicating the property has failed inspection. If a property fails inspection, the written report shall itemize each violation that was identified and what was seen that caused them to determine that the property was in violation of the regulations. This report will be placed in the property's file at the Town of Conway and the written report will be provided by either mail or e-mail to the property owner.

1) A property that does not pass inspection can either make improvements in order to pass a follow-up inspection, or they can reply to the Town of Conway staff to indicate they believe there has been either a misunderstanding of the regulations as they apply to the property, that they intend to apply for a waiver due to the historic nature of the property, or that they plan to appeal directly to the Appeal Board.

i. Owners that elect to make improvements needed to pass inspection shall schedule a re-inspection within 3 months or submit documentation to the town demonstrating that the repair cannot be done within that timeframe but is scheduled for completion. This documentation should include the name of the contractor or tradesperson who is scheduled to complete the work and the approximate timeframe.

72-7. Fees.

A. A fee will be paid at the time of registration. This fee is to cover the administrative and inspection costs of the program and not to create revenue for the Town of Conway.

- 1) 1- and 2- family home inspection for a single structure on one lot- \$375 with issuance of the CRC
- 2) Mobile home parks and PUD/condominiums with single unit structures- \$500 with issuance of the CRC
- 3) Multi-family homes with 3-11 units- \$500 with issuance of the CRC
- 4) Multi-family homes with 12+ units- \$375 annually
- 5) Mixed use structure inspections- RESERVED

B. The fee shall be waived for any property who is receiving their CRC at the same time as a CO, as the inspection fees have been paid for by the building permit fee. This shall also apply to buildings that receive a CRC under a prior CO that was received within 3 years of April 09, 2024.

72-8. Waiver Process.

A. Pursuant to Section 48-A:12, an owner of a property that is deemed historic by listing on the National Register of Historic Places, the State Register of Historic Places, is a contributing building to an existing or eligible historic district, or a building which is more than 50 years old and the preservation of which is in the public interest, can ask the appeals board for a waiver from a standard in this chapter which the board agrees is necessary to preserve the historic appearance or function of the building and which does not significantly impact the safety of building residents.

B. Any long term rental property that has a lease that is active as of 1/1/2024 may receive a waiver for non-compliance for work that cannot be completed while the structure is occupied. Once the current tenant no longer occupies the structure, the unit cannot be rented until it is brought into compliance. A CRC can be issued based on this waiver process for the specific tenant listed on the lease as of 1/1/2024.

C. Other waivers may be granted by the Appeals Board if necessary.

72-9. Certificate of Rental Compliance (CRC) Renewal.

A. An initial CRC is good for three years and expires based on the address number of the property in the month listed in 72-9.C following the third year.

B. A second CRC issued to the same property and owner that receives a fully compliant inspection will be good for 7 years and will be re-approved on a 7-year basis as long as no violations are noted at subsequent inspections. Properties with a documented failed inspection will be given a 3-year renewal rather than a 7-year renewal.

C. Renewal month based on the last digit in the address number: January-1, February-2, March-3, April-4, May-5, June-6, July-7, August-8, September-9, October-0

72-10. Fines.

Fine for operating a rental without a Certificate of Rental Compliance- Fines will be issued in accordance with state statute.

72-11. Appeals. A Housing Appeals Board will be formed by an appointment of the Board of Selectmen.

A. The Housing Appeals Board shall be composed of 5 members, including:

1. A general contractor with not fewer than 10 years of experience, 5 of which have been in responsible charge of work
2. A mechanical contractor with not fewer than 10 years of experience, 5 of which have been in responsible charge of work
3. An electrical contractor with not fewer than 10 years of experience, 5 of which have been in responsible charge of work
4. A plumbing or fire protection contractor with not fewer than 10 years of experience, 5 of which have been in responsible charge of work
5. A landlord who owns property in the Town of Conway

B. This board shall meet once on odd numbered months or monthly upon receipt of application to review appeals to the violations of the TOC Housing Standards that cannot be mediated or resolved with Town Staff and the Fire Chief(s) directly.

C. Appeals board decisions can be appealed to the Carroll County Superior Court.

72-12. Definitions.

Housing unit- Overnight accommodation for a family or group of people that may be a single room, multiple rooms, and may or may not include a kitchen or food preparation area.

Rental housing- A housing unit that is occupied by someone other than the property owner in exchange for a fee.

Short term rental- Any occupancy of a residential structure such as but not limited to single-family homes, duplexes, multifamily (three or more individual units), group homes, or any type of structure that is used for overnight accommodations for a time period up to thirty days.

Long term rental- Any occupancy of a residential structure such as but not limited to single-family homes, duplexes, multifamily (three or more individual units), group homes, or any type of structure that is used for overnight accommodations for a time period greater than thirty days.

Single family (1- family) home- A residentially occupied structure that provides living, sleeping, individual cooking and restroom facilities, usually occupied by an individual or group of individuals occupying the structure as an individual or as a family.

Duplex (2- family) home- A residentially occupied structure that provides two (separate) living, sleeping, cooking and restroom facilities, usually occupied by an individual or group of individuals occupying the structure or either of the separate facilities as an individual or as a family.

Multifamily housing- A residentially occupied structure that provides three or more (separate) living, sleeping, cooking and restroom facilities with the individual (separate) facilities occupied by an individual or group of individuals occupying the facility as an individual or as a family.

Mixed occupancy housing- Any building that contains single-family, duplex and multifamily housing in addition to one or more non-residential occupancies.

Certificate of Occupancy (CO)- The written approval issued by the Town of Conway to occupy a structure or building.

Certificate of Rental Compliance (CRC)- The written approval issued by the Town of Conway to occupy rental housing within a structure or building, indicating that a rental property has been inspected by the fire chief and meets the Town of Conway Housing Standards according to Chapter 72

Chapter 72 Appendix 1.

Application Form for a Certificate of Rental Compliance

Chapter 72 Appendix 2.

Inspection Checklist

Chapter 72 Appendix 3.

Wood Stove Inspection Checklist

Appendix 4

Electrical System Checklist



TOWN OF CONWAY

23 MAIN STREET + P. O. Box 2680 + CONWAY, NEW HAMPSHIRE 03818

(603) 447-3811
WWW.CONWAYNH.ORG

Rental License Inspection Registration Form

Map and Parcel #

Please complete and return to Town Hall per RSA 540:1

Beginning January 26, 2024, an application for a rental license will be required

Home Owner Name

Home Owner Address

Mailing Address

Property Manager Name

Home Owner Phone Number

Property Manager Phone Number

Home Owner Email Address

Property Manager
Email

Dwelling Information

Dwelling Type: ☐ Single Family ☐ multi-Family ☐ Condo ☐ Apartment ☐ Room
Choose an item. Number of Multi-Family Units

Property Address

Date Of Inspection

Signature

Date





TOWN OF CONWAY

23 MAIN STREET+ P.O. Box 2680 + CONWAY, NEW HAMPSHIRE 03818

(603) 447-3811
WWW.CONWAYNH.ORG

*Fee \$375 per Life Safety Inspection. License is valid for 3 years

PROPERTY ACCESS AND LIFE SAFETY INSPECTION AGREEMENT

By signing this agreement, Signature: _____ grants The Town Of Conway permission to enter the property located at Address _____ for the purpose of conducting a life safety inspection.

Read, understood, accepted, and agreed:

STATE OF _____

COUNTY OF _____

On this the _____ day of _____, 20_____, before me personally appeared _____ and acknowledged that he executed the same for the purposes therein contained.

Notary Public/Justice of the Peace
My Comm. Expires: _____
Print or Type Name: _____





TOWN OF CONWAY

23 MAIN STREET • P.O. Box 2680 • CONWAY, NEW HAMPSHIRE 03818

(603) 447-3811
WWW.CONWAYNH.ORG

Life Safety Self Inspection Checklist for One- and Two-Family Rentals *Beginning January 26, 2024, an application for a rental license will be required.*

Address _____ Map and Lot _____

Owners Name _____ Phone Number _____

Owners Mailing Address _____

City _____ State _____ Zip Code _____

Owners Email _____

1. **Address Visible from the Street?** Yes ☐ No ☐
(The address identification shall be legible and in a position that is visible from the street or road frontage of the property. Address identification shall contrast with background. Numbers shall not be spelled out. Each character shall be not less than 4 inches in height with a stroke width of not less than .5 inches)
2. **Smoke Alarms:** The state of New Hampshire requires interconnected, Smoke alarms on every habitable level, in each sleeping units, and outside of each bedroom. Yes ☐ No ☐
3. **Carbon Monoxide Alarms:** Are CO Alarms present on each level? Yes ☐ No ☐
(These may be stand alone or combination alarms with smokes)
4. **Means of Egress:** Does every occupiable area of the building have not less than one means of egress (typically a door) and one means of escape (typically, a window that opens to 5.7 sq ft)? A second door meets the requirement.
(The State of NH has ordered that NO ONE may be permitted to sleep in a building without proper means of egress and escape) (State bulletin# 2020-03) Yes ☐ No ☐
5. **Heating Appliance Maintenance:** Have gas and oil heating appliances been serviced within the last 24 months? Yes ☐ No ☐
6. **Wood Stoves and Chimneys:** Are wood stoves and chimneys compliant with our adopted check list. Yes ☐ No ☐



TOWN OF CONWAY

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7. **Electrical System:** Is the electrical system compliant with the adopted checklist
Yes ☐ No ☐
8. **Is there not less than one 1A:5BC fire extinguisher available for use?** Yes ☐ No ☐
a. Conditions of compliance
i. Pressure gage is in the Green Yes ☐ No ☐
ii. Tank is hydro compliant Yes ☐ No ☐
iii. No damage to the tank Yes ☐ No ☐
9. **Fire Pit:** In Accordance with RSA 227-L. 17 Yes ☐ No ☐
10. **Grills:** If present, charcoal grills, gas grills, and wood pellet cookers are located on the ground and NOT on a deck, porch, or under any overhanging part of the building. Yes ☐ No ☐

Per the State of New Hampshire, NO ONE may sleep in a building without operating smoke alarms or in an area without proper means of egress and escape. Therefore, any building that has checked "no" on items 2 or 4 is not occupiable until those issues are corrected.

By signing this agreement, Signature: _____ grants The Town Of
Conway permission to enter the property located at Address _____
for the purpose of conducting a life safety inspection.

Signature of Inspector

Printed Name of Inspector



TOWN OF CONWAY

23 MAIN STREET • P.O. Box 2680 • CONWAY, NEW HAMPSHIRE 03818

(603) 447-3811
WWW.CONWAYNH.ORG

Signature of Owner or Agent

Printed Name of Owner or Agent

Read, understood, accepted, and agreed:

STATE OF _____

COUNTY OF _____

On this the _____ day of _____, 20_____, before me personally
appeared _____ and acknowledged that he executed the same
for the _____ purposes therein contained.

Notary Public/Justice of the Peace
My Comm. Expires: _____
Print or Type Name: _____

This form is in accordance with New Hampshire Revised Statutes Title 319-c:15

Electrical Inspection Checklist

Date: _____ Address: _____

Item	Yes	No
1. Service Mast is secured to structure (NFPA 70: 230.54 (D))	<input type="checkbox"/>	<input type="checkbox"/>
2. Meter socket is free of defects and not rusted through (NFPA 70: 312.10)	<input type="checkbox"/>	<input type="checkbox"/>
3. Electrical Panel has no missing breakers or exposed live parts. (NFPA 70: 110.27)	<input type="checkbox"/>	<input type="checkbox"/>
4. Electrical Panel is readily accessible for immediate use. (NFPA 70: 240.24)	<input type="checkbox"/>	<input type="checkbox"/>
5. Breakers are properly labeled (NFPA 70: 110.22(A))	<input type="checkbox"/>	<input type="checkbox"/>
6. Branch circuit wire size entering panel is consistent with a amperage of breakers (NFPA 70: 240.4(D))	<input type="checkbox"/>	<input type="checkbox"/>
7. Splices and junctions are made in boxes (NFPA 70:300.15)	<input type="checkbox"/>	<input type="checkbox"/>
8. Junction boxes are properly closed (NFPA 70: 314.28 (C))	<input type="checkbox"/>	<input type="checkbox"/>
9. Receptacle and switch boxes have plates/ covers. (NFPA 70: 34.25)	<input type="checkbox"/>	<input type="checkbox"/>
10. GFCI protection is provided at kitchen counters, bathrooms, Laundry, unfinished basements, garages, outside, and anywhere A receptacle is within 6 feet of water. (NFPA 70: 210.8)	<input type="checkbox"/>	<input type="checkbox"/>
11. Receptacles and Switches are not damaged, scorched, or burnt (NFPA 1:4.5.8.1)	<input type="checkbox"/>	<input type="checkbox"/>
12. Extension cords are appropriately sized, used, do not pass through Walls, floor/ceiling assemblies, windows, doorways, and are Plugged directly into a wall receptacle. (NFPA 1:11.1.5)	<input type="checkbox"/>	<input type="checkbox"/>
13. Multi-plug adapters are plugged directly into a wall receptacle and Are not overloaded. (NFPA 1:11.1.3)	<input type="checkbox"/>	<input type="checkbox"/>

Inspector's Name _____

Signature _____

Wood Stove Inspection Checklist

Date: _____

Address: _____

Item	Yes	No
1. Is the stove listed by an independent testing lab?	<input type="checkbox"/>	<input type="checkbox"/>
2. Is the stove at least 36 inches from an unprotected wall or Combustible structures Installed per the manufacturer's requirements?	<input type="checkbox"/>	<input type="checkbox"/>
3. Is there a hearth or listed floor protector on the floor?	<input type="checkbox"/>	<input type="checkbox"/>
4. Does the floor protection extend at least 8 inches beyond the Non-opening sides of the stove?	<input type="checkbox"/>	<input type="checkbox"/>
5. Does the floor protection extend at least 18 inches on the Opening side(s) of the stove?	<input type="checkbox"/>	<input type="checkbox"/>
6. Is there not less than 36 inches of clearance from the stove to Any combustibles including structure, furnishings, and wood?	<input type="checkbox"/>	<input type="checkbox"/>
7. Is the stove stable and free of cracks or deficiencies?	<input type="checkbox"/>	<input type="checkbox"/>
8. Is the flue pipe free from cracks, rust, holes, and properly sized, And installed	<input type="checkbox"/>	<input type="checkbox"/>
9. Is there a damper on the flue pipe, or integrated in the stove?	<input type="checkbox"/>	<input type="checkbox"/>
10. If the chimney is masonry, is it lined? If it is metal is insulated, Multi-walled pipe?	<input type="checkbox"/>	<input type="checkbox"/>
11. Has the chimney been cleaned in the past 24 months?	<input type="checkbox"/>	<input type="checkbox"/>
12. Is there a metal can with a lid, and shovel for removing ash?	<input type="checkbox"/>	<input type="checkbox"/>

Inspector's Name _____

Signature _____

CHAPTER 197 DRAFT

COMMUNITY REVITALIZATION TAX RELIEF INCENTIVE

Purpose:

The Community Revitalization Tax Relief Incentive program permitted by RSA 79-E, allows a tax relief period intended to incentivize the development of Affordable Housing within Qualifying Structures provided said projects create certain public benefits. The Town of Conway hereby adopts RSA 79-E in the manner specified under RSA 79-E:3. In addition, the Town has modified the incentive program to best suit the needs of Conway.

Declaration of Public Benefit:

It is declared to be a public benefit to create long-term affordable housing through the development of underutilized structures and parcels within the Town of Conway. A protective covenant to maintain long-term and affordable residential units, as required under this ordinance, is considered to provide a demonstrated public benefit.

Definitions:

Affordable Housing. A long-term, non-transient housing unit or units constructed or rehabilitated and designated for households with an income of 80 percent or less of the area median income as measured by the United States Department of Housing and Urban Development or designated for households with incomes as provided in RSA 204-C:57, IV.

Covenant. A formal and legally binding agreement such as a deed restriction or other acceptable agreement recorded at the Carroll County Registry of Deeds.

Qualifying Structure. A residential or mixed-use structure, or portion thereof, which consist of at least one Affordable Housing unit within a Housing Opportunity Zone. A minimum of one-third (1/3) of the total housing units in a structure shall be restricted as Affordable Housing.

Housing Opportunity Zone. An overlay district, as depicted on the Official RSA 79:E Map of the Town of Conway, which includes all zoning districts with the exception of land within the Floodplain Conservation Overlay District or non-buildable areas as outlined in applicable zoning regulations.

Replacement. The demolition or removal of a Qualifying Structure and the construction of a new structure on the same lot.

Substantial Rehabilitation. Rehabilitation of a structure which costs at least 10 percent of the pre-rehabilitation assessed valuation or at least \$35,000; whichever is less.

Tax Relief. A period of time, as determined by the Selectmen in accordance with this ordinance, which the property tax on a Qualifying Structure shall not increase pursuant to Chapter 197.

Community Revitalization Tax Relief Incentive:

- A. An owner of a proposed Qualifying Structure who intends to substantially rehabilitate, replace such structure, or create new Affordable Housing units may apply to the Selectmen for Community Revitalization Tax Relief. The applicant shall file a complete application, including,

a description of the intended rehabilitation, replacement, or construction; any changes in use of the property resulting from the rehabilitation or replacement, and associated application fee.

- B. Tax relief granted under this ordinance shall be calculated on the value in excess of the original assessed value. Original assessed value shall mean the value of the Qualifying Structure assessed at the time the Selectmen approves the application for tax relief.
- C. The tax relief granted under this chapter shall only apply to substantial rehabilitation, replacement, or construction that commences after the Selectmen approves the application for tax relief and the owner grants to the Town the covenant to protect the public benefit as required in this chapter.

Duration of Tax Relief Period:

- A. The Selectmen may grant such tax assessment relief for a period of up to ten (10) years, beginning with the completion of the construction.
 - a. For the approval of a replacement of a Qualifying Structure, the Selectmen may grant such tax assessment relief for a period of up to ten (10) years, beginning only upon the completion of construction. For the purposes of this section, the issuance of a Certificate of Occupancy shall constitute completion of construction. The municipal tax assessment of the replacement structure and the property on which it is located shall not increase or decrease in the period between the approval by the Selectmen for the replacement structure and the time the owner completes construction of the replacement structure and grants to the Town the covenant to protect the public benefit as required by this chapter. The Selectmen have no obligation to grant any tax assessment relief under this chapter with respect to property and structures for which an election has been made for property appraisal under NH RSA 75:1-a, Residential Property Subject to Housing Covenant Under the Low-Income Housing Tax Credit Program.
- B. The Selectmen may, at its discretion, add up to an additional 4 years of tax relief for the substantial rehabilitation of a Qualifying Structure that is listed on or determined eligible for listing on the National Register of Historic Places, state register of historic places, or is located within and important to a locally designated historic district, provided that the substantial rehabilitation is conducted in accordance with the U.S. Secretary of Interior's Standards for Rehabilitation.
 - a. In order to assist the Town with the review and evaluation of an application for replacement or rehabilitation of a Qualifying Structure, an owner shall provide a completed review by the New Hampshire Division of Historical Resources.
- C. Upon receipt of an application, the Planning Department will review the proposal for any compliance or zoning issues.

- D. The Selectmen will hold a duly noticed public hearing to take place no later than 60 days from receipt of an application, to determine whether the structure at issue is a Qualifying Structure and whether there is a public benefit to granting the requested tax relief.
- E. Upon the determination of a Qualify Structure by the Selectmen, the property owner must consent to an inspection of the property by the Assessing Department to establish a property value prior to any proposed construction.
- F. No later than 45 days after the public hearing, the Selectmen shall render a decision granting or denying the requested tax relief and, if so granting, establishing the tax relief period.
- G. The Town may grant the tax relief, provided:
 - a. The Selectmen grant the request by a majority vote; and
 - b. The Selectmen finds a public benefit as defined in this chapter; and
 - c. The specific public benefit is preserved through a protective covenant; and
 - d. The Selectmen finds that the proposed use is consistent with the municipality's Master Plan and regulations; and
 - e. In the case of a replacement, the Selectmen specifically finds that the replaced Qualifying Structure does not possess significant historical, cultural, or architectural value, the replacement of a Qualifying Structure will achieve one or more of the public benefits identified in Chapter 197 to a greater degree than the renovation of the underutilized structure, and the historical, cultural, or architectural resources in the community will not be adversely affected by the replacement.
- H. If the Selectmen grants the tax relief, they shall identify the specific public benefit achieved under Chapter 197, and shall determine the precise terms and duration of the covenant to preserve the public benefit under this ordinance.
- I. The Selectmen shall have no obligation to grant an application for tax relief for properties when its determined, in the Boards sole discretion, that the granting of tax relief will impede, reduce, or negatively affect the community.

Extent of Tax Relief:

- D. Tax relief granted under this ordinance shall pertain only to assessment increases attributable to the substantial rehabilitation or construction of a Qualifying Structure performed under the conditions approved by the Selectmen and not to those increases attributable to other factors including but not limited to market forces.
- E. No commercial portion of a Qualifying Structure shall be eligible for tax relief.

Covenant to Protect Public Benefit:

- A. Tax relief for the substantial rehabilitation or replacement of a Qualifying Structure shall be effective only after a property owner grants to the municipality a covenant ensuring that the structure shall be maintained and used in a manner that furthers the public benefits for which the tax relief was granted and as otherwise provided in this chapter.
- B. The covenant shall be coextensive with the tax relief period. The covenant may, if required by the Town, be effective for a period of time up to twice the duration of the tax relief period.
- C. The covenant shall include provisions requiring the property owner to obtain and maintain a certificate of occupancy for the duration of the tax relief period.
- D. The covenant shall include provisions requiring the property owner to obtain casualty insurance, and flood insurance if appropriate. The covenant may include, at the Selectmen's sole discretion, a lien against proceeds from casualty and flood insurance claims for the purpose of ensuring proper restoration or demolition of damaged structures and property. If the property owner has not begun the process of restoration, rebuilding, or demolition of such structure within one year following damage or destruction, the property owner shall be subject to the termination of provisions set forth in the ordinance.
- E. The covenant shall restrict all residential units within a qualifying structure for long-term use with a minimum tenancy of six (6) months.
- F. The covenant must require the leasee of any unit restricted for affordability not be the property owner, including the member or owner of any company (LLC, S-corp, C-corp, partnership of any kind or the beneficiary of any trust) with an ownership interest in the property.
- G. To protect public benefits, the Town must record the covenant with the registry of deeds. It shall be a burden upon the property owner and must bind all transferees and assignees of such property.
- H. The applicant shall provide to the Town a draft covenant, prepared by legal counsel, prior to recording. The applicant shall be responsible for the cost of recording the covenant.

Resumption of Full Tax Liability:

Upon expiration of the tax relief period, the property shall be taxed at its market value in accordance with RSA 75:1.

Termination of Covenant; Reduction of Tax Relief; Penalty:

- A. If the owner fails to maintain or utilize the building according to the terms of the covenant, or fails to restore, rebuild, or demolish the structure following damage or destruction as

provided in this chapter, the Selectmen shall, after a duly noticed public hearing, determine whether and to what extent the public benefit of the rehabilitation or replacement has been diminished and shall determine whether to terminate or reduce the tax relief period in accordance with such determination. If the covenant is terminated, the Town shall assess all taxes to the owner as though no tax relief was granted.

- B. At any time during the tax relief period, the Town may demand current lease agreements or other applicable documents to verify the Public Benefit is maintained.
- C. All taxes levied pursuant to RSA 79-E:9 which are not paid when due shall be collected in the same manner as provided in RSA 80 and be subject to penalties defined in RSA 79-E:9.



Housing Opportunity Zone

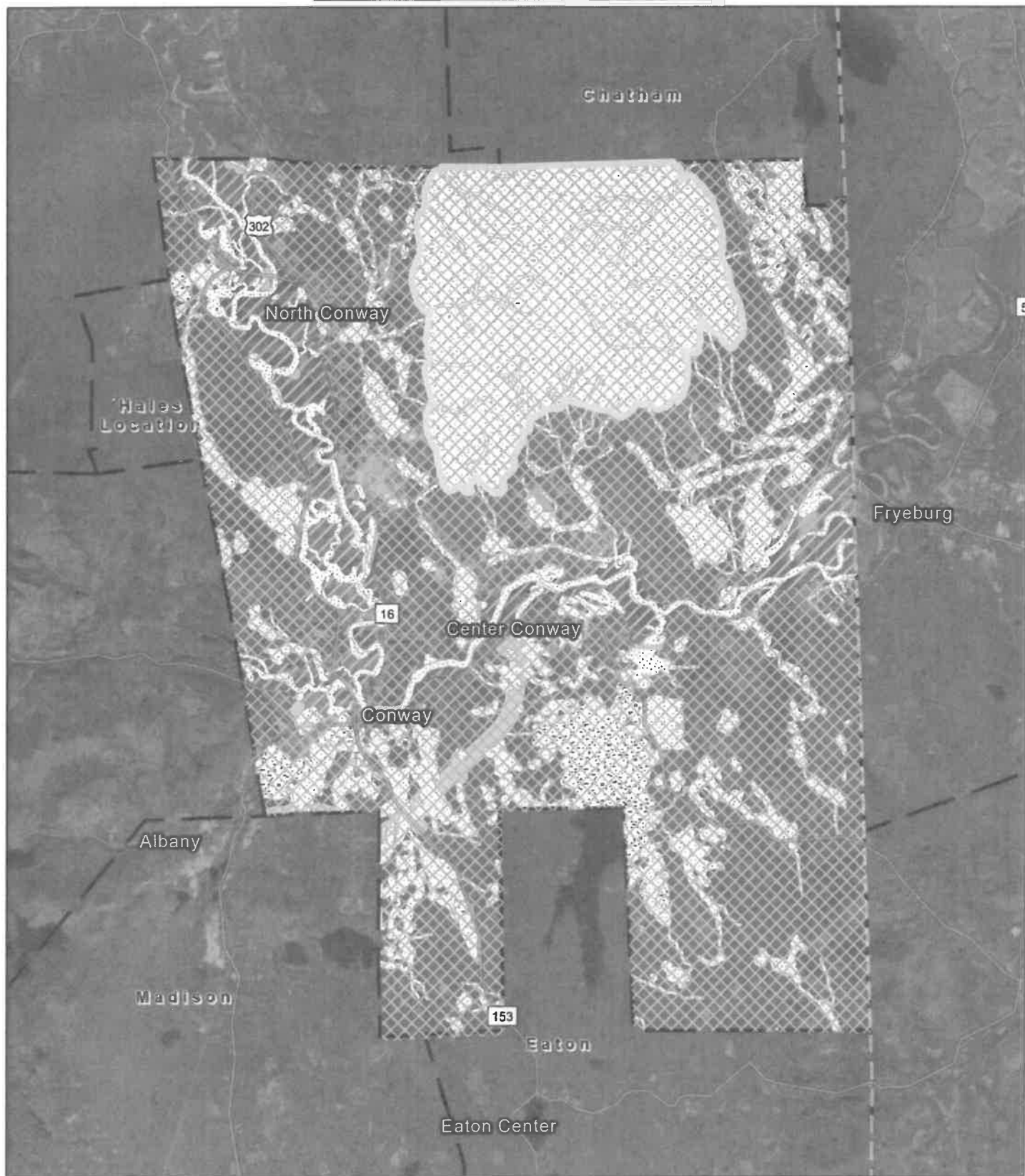
Official RSA 79:E Map, Town of Conway, NH



1 inch = 8673 Feet

www.cai-tech.com

December 28, 2023



The property data available on this site is updated periodically. The Town of Conway makes no warranties with regard to its accuracy or completeness and assumes no liability associated with the use of this data.

Draft Amendments to Chapter 170 to include Food Trucks

170.10 Food Trucks

170.11 Applicability

Any Food Truck operating within the Town of Conway shall be responsible for obtaining a permit pursuant to this chapter and shall complying with these regulations and any additional terms of the permit.

170.12 Definitions:

FOOD TRUCK A food service establishment mounted on wheels or otherwise designed to be immediately moveable.

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.

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

170.13 Location

- (A) Site Plan approval is required to establish a Food Truck Location.
- (B) Food Trucks are permitted within the following zones on lots with an existing commercial use.
 - a. Highway Commercial, Recreational Resort, Center Conway Village Commercial, Conway Village Commercial, Conway Village Residential, Center Conway Village Residential, Industrial One & Two.
- (C) Any Food Truck with a current permit may operate in an approved location.
- (D) One Food Truck is permitted per lot. Additional Food Trucks may be allowed by Special Exception. This restriction does not apply to Temporary Events.

170.14 Standards

- (A) Site Plan approval is required to establish a permanent Food Truck Location.
- (B) Site Plan applications must address the following:
 - a. Parking. Sites must maintain required parking for all operations as per site Plan Regulations 110-20.

- b. Garbage. Adequate garbage receptacles must be provided.
- c. Pedestrian Safety. Standing, waiting, or any pedestrian interaction with the Food Truck must be outside of any travel way.
- d. All businesses are required to make themselves accessible to people with disabilities under the Americans with Disabilities Act (ADA) Title III guidelines.
- e. No seating area is permitted with the travel way or parking lot. Seating areas shall be identified and approved by the Planning Board.
- f. Restroom facilities shall be available to patrons within the primary commercial structure or by temporary facilities placed on site. All restroom facilities must comply with ADA standards.

(C) Temporary Permits

- a. A Temporary Event Permit is required for any Food Truck to operate in a location without Site Plan approval and shall not remain in a location for greater than 14 days or as specified in a permit decision.
- b. Any Food Truck operating as a Temporary Event shall also possess a current Food Truck Permit.

170.15 Permit Required

- (A) Any Food Truck operating in the Town of Conway shall have a current permit.
- (B) Food Truck operators shall have in their possession a valid Mobile Food Unit permit from the New Hampshire Department of Health and Human Services unless a State exemption applies.
- (C) A Food Truck shall not be unattended for 30 or more minutes, parked or stored overnight on any public grounds, street, or highway.
- (D) Signage.
 - a. Approved Food Truck operations are permitted one A-Frame sign not to be placed within any public Right-of-Way and shall meet the following requirements:

- i. Placement must provide a minimum 6-foot clear path of travel between the edge of the A-frame signage and any obstruction in the sidewalk, such as light poles, and fire hydrants.
- ii. Signage shall not be used for general advertising, but only to identify business name and business information (e.g. operating hours, menu, slogan).
- iii. Signs may not be secured to facilities or buildings; they shall be removable at all times.
- iv. Additional signage shall require a sign permit.

PAYMENT IN LIEU OF TAXES AGREEMENT
BETWEEN
THE TOWN OF CONWAY, NEW HAMPSHIRE
AND
KEARSARGE SOLAR LLC

This Payment in Lieu of Taxes (PILOT) Agreement (hereafter “Agreement”) is made as of this ____ day of [X], under New Hampshire Revised Statutes Annotated (NHRSA) 72:74, between the Town of Conway, New Hampshire (“Town”) and Kearsarge Solar LLC, a Massachusetts limited liability company, (“Company”) with respect to the following facts and circumstances:

Background

Company seeks to develop a renewable solar power electric generating facility (the “Facility”) to be located on a portion of a Town owned parcel of land located at [Landfill address].

Company will be responsible for the payment of taxes and assessments imposed on the Facility under NHRSA Chapter 72 (but not for taxes on the value of the underlying parcel).

The Facility will be a “renewable generation facility” as defined in NHRSA 72:73. Under NHRSA 72:74, the owner of a renewable generation facility and the governing body of the municipality in which the facility is located may enter into a voluntary agreement to make payments in lieu of taxes.

The Company and City desire to enter into such a PILOT agreement under NHRSA 72:74.

Therefore, the parties hereto agree as follows:

Terms and Conditions

1. **Payments in Lieu of Taxes.** Company will make payments in lieu of taxes to the City for each tax year (April 1 to March 31) during the term of this Agreement, in accordance with Sections 3 and 4 below. These PILOT payments will be in lieu of any and all ad valorem real estate taxes otherwise payable under NHRSA Chapter 72.
2. **Term.** Mindful of NHRSA 72:74, VI and VII, the parties have determined that a long-term agreement providing predictability of tax revenues and expenses would be advantageous to both the City and Company. Accordingly, the term of this Agreement shall be the duration of twenty (20) years from the commercial operation date (the “Operating Term”). Company shall give the Town written notice of said commercial

operation date within seven (7) days after it occurs. The notice shall include the Facility's as built nameplate capacity as measured in megawatts alternating current ("MW AC"). This Agreement shall also terminate concurrent with the termination of the lease agreement executed between the Company and the Town on [X] if said lease agreement terminates.—

3. PILOT Payments for 20-Year Operating Term. Subject to possible adjustments up or down under Section 4 below, annual PILOT payments to the City for the 20-year Operating Term shall be at the rate of \$4,000 per MW AC of nameplate capacity. During the first year of the Operating Term, if the Facility is not in commercial operations throughout the corresponding tax year, the PILOT payment owed for that tax year shall be calculated as follows:

$$(\text{nameplate capacity}) \times (\text{days in tax year in which Facility is in commercial operations} / 365) \times (\text{PILOT rate})$$

During the last year of the Operating Term, if Operating Term terminates during the corresponding tax year, the PILOT payment owed for that tax year shall be calculated as follows:

$$(\text{nameplate capacity}) \times (\text{days in tax year prior to termination of the Operating Term} / 365) \times (\text{PILOT rate})$$

4. Potential Adjustment of PILOT Payments.

- (a) Increase in Capacity. In the event that the Facility's nameplate capacity increases during the term of the Agreement, then the PILOT payments beginning in the next tax year will be adjusted upwards.
- (b) Reduction in Capacity. If the Facility's installed and operating capacity as of April 1 in any tax year is materially reduced (due to causes beyond Company's control) from the previous tax year due to: (i) damage caused by natural forces, (ii) operational restrictions caused by a change in law, regulation, ordinance, or industry management standards, (iii) decommissioning and removal of inverters, or (iv) the permanent cessation of the Facility's operations, then the PILOT payment will be adjusted downward based on the total actual installed and operating Nameplate Capacity after the reduction in capacity, or in the case of clause (iv) above, the Agreement will terminate.

5. Payment of Amounts Due. The City will issue an annual PILOT invoice for each tax year during the Operating Term. Company will make the PILOT payment within 30 days of invoice date.
6. Non-Payment. Non-payment of any payment due to the City shall constitute a default. Notice of non-payment shall be provided to Company in the manner and at the address provided for Notices in Section 9 of this Agreement. Company shall have 30 days to cure the default after receiving such notice. In the event the default is not cured within 30 days, the City may commence an action to collect any non-payment under NHRSA 80:50, or proceed against the real estate under NHRSA 80:58-80. It shall not be a defense to such proceeding that Company is obligated under this Agreement to make payments in lieu of taxes rather than taxes.
7. Financing Parties' Right to Cure. The City shall send a copy of any notice of default sent to Company to Company's financing parties by certified mail at the same time such notice is sent to Company, and no such notice of default to Company shall be effective unless and until a copy of such notice has been delivered to each of Company's Lenders. Company's financing parties shall have the same time and rights to cure any default as Company, and the City shall accept a cure by any of Company's financing parti as if such cure had been made by Company. Company's financing parties shall be afforded the protections for financing parties as set forth in the Facility lease agreement agreed by the Town and Company. Company shall provide the Town the contact information for the Facility's financing parties no later than the Company's notice to the Town of the Facility's commercial operation date.
8. Other Taxes Not Covered. This Agreement covers only ad valorem real estate taxes payable under NHRSA Chapter 72. It does not include or cover other local, state, or federal taxes which may be payable on account of Facility revenues or activities, including Land Use Change Tax, Timber Tax, State Utility Property Tax, Business Enterprise Tax, or Federal Income Tax.
9. Notices. Any notice to be provided under this Agreement shall be in writing and shall be deemed to have been given when delivered personally or by certified mail at the following addresses, in addition to the Company's financing parties as set forth in Section 7 above:

To the Town: Town of Conway
 Attn: [X]
 23 Main Street
 Conway, NH 03818

To the Company: Kearsarge Solar LLC
 c/o Kearsarge Energy

1380 Soldiers Field Rd, Suite 3900
Boston, MA 02135

10. Assignment. Company shall have the right to assign this Agreement to any affiliate, bona fide purchaser, transferee, or assignee of the Facility or Company, provided that the Company shall provide written notice to the Town of the assignment.

11. The terms and provisions contained in this Agreement constitute the final Agreement between the parties with respect to this Agreement and supersede all previous communications, representations or agreements, either verbal or written. No modification or amendment to this Agreement shall be valid unless it is in writing and signed by both parties hereto.

12. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original instrument, but all of such counterparts together will constitute but one Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, this Agreement is executed as of the date first written above.

TOWN OF CONWAY, NEW HAMPSHIRE

By: _____

Name:

Title:

KEARSARGE SOLAR LLC

By: _____

Name: Andrew J. Bernstein

Title: Manager

SOLAR LEASE

THIS GROUND LEASE AGREEMENT (this “*Lease*”) is made and entered into this _____ day of April[X], 2024 (the “*Effective Date*”), by and between the Town of Conway[X] (“*Landlord*”) and Kearsarge [X] LLC, a Massachusetts limited liability company (“*Tenant*”). Landlord and Tenant may also be referred to individually as a “*Party*” or collectively as the “*Parties*.”

The Parties agree as follows:

1. LEASE OF PROPERTY.

Landlord owns that certain real property located at 755 East Conway Road, Conway, New Hampshire 03813 identified as Assessor’s Tax Parcel Number 02047-253-17 together with any buildings and improvements thereon (collectively, the “*Property*”). Landlord hereby leases to Tenant a portion of the Property comprised of air rights over and property rights necessary to install solar photovoltaic panels on a parcel of land located at 755 East Conway Road, Conway, New Hampshire, 03813 containing approximately 6.2 acres more or less as shown on a plan attached hereto as **EXHIBIT 1** (such 6.2 more or less acre portion of the Property the “*Leased Area*”), together with (i) the nonexclusive right for ingress and egress over [description of access road], located on a portion of the Property and a “Proposed [X Foot] Wide Utility & Access Easement” to the Leased Area as more fully depicted on **EXHIBIT 1** (collectively, the “*Access Road*”), (ii) utility access, including grading, installation of utilities and related rights in, over, under and across the Property and the Access Road at locations shown in **EXHIBIT 1** or, if not so shown, to be subsequently agreed upon by the Parties in writing, and (iii) to use the surrounding or nearby property owned by Landlord, including the Property, during construction phase for non-exclusive temporary storage and staging of tools, materials, equipment, and for the parking of construction vehicles and equipment in connection with the installation work, each as reasonably necessary for the purpose of installing, operating and maintaining a solar energy generation facility, the sale of energy therefrom, and such other uses as may be necessary or incidental thereto, which may also include the installation and operation of an energy storage facility (hereinafter the “*System*”), which Leased Area, Access Road and easements and access described in (i) – (ii) above are collectively referred to hereinafter as the “*Leased Premises*”.

2. PERMITTED USE.

(a) Tenant may erect, maintain, own, modify and operate on the Leased Area improvements, personal property, and facilities, including, but not limited to the System, appurtenances, and any other equipment and related facilities, provided the same are necessary for or incidental to the installation, operation and maintenance of the System, the generation of energy by the System, and sale of the energy generated by the System (the “*Intended Use*”). Such use includes the right to test, survey and run and review title on the Property and any other items necessary for the Intended Use as more particularly set forth in Section 5. Landlord and Tenant agree that **EXHIBIT 1** shows the initial location of the System by Tenant on the Leased Area, and that it does not limit Tenant’s

rights under this paragraph to modify the location of the System within the Leased Area, subject to the terms of this Lease and to the approval of Landlord, which shall not be unreasonably withheld, conditioned, or delayed. Landlord's execution of this Lease constitutes Landlord's approval of **EXHIBIT 1** and the approval of Tenant's right, subject to other provisions of this lease, to install other equipment that may be necessary for or incidental to the installation, operation and maintenance of the System, including without limitation solar modules, mounting substrates, supports and weights, wiring and connections, power inverters, service equipment, metering equipment, and utility interconnections. Tenant has the right to make other necessary or incidental improvements, alterations, or additions on the System and/or Leased Premises—appropriate for the Intended Use without Landlord's written approval, provided that Tenant shall have no right to expand the Leased Premises as shown on EXHIBIT 1 without Landlord's written approval.—

(b) System Use. Tenant agrees to comply with all applicable governmental laws, rules, statutes and regulations, relating to its use of the System on the Property, provided, however, if at any time Tenant's Intended Use is restricted by any law or zoning ordinance (or interpretation thereof) presently enacted (or rendered), or subsequently enacted (or rendered) after the date that this Lease is executed, by a governmental authority, and materially restricts Tenant's ability to utilize the System and/or Leased Premises for the Intended Use (an "**Adverse Legal Change**"), Tenant shall have the right to terminate this Lease upon thirty (30) days prior written notice to Landlord. Tenant has the right in its sole discretion to modify, supplement, repair, replace, and/or upgrade all or part of the equipment for the System at any time during the Term of this Lease. Tenant shall not use the Leased Premises for any purpose other than the Intended Use without the written consent of the Landlord. Tenant shall work with Landlord to ensure that others having a right of access over the Access Road and the Tenant shall have unhindered access to coordinate installation and construction activities as to allow Landlord's continued use of the Access Road without unreasonable interference.

(c) Construction Standards. Any and all improvements to be constructed, erected or maintained on or at the Leased Premises shall be constructed, erected and maintained in accordance with all Applicable Laws (as defined below) and Governmental Approvals (as defined below). Tenant's construction, operation, and maintenance of any and all improvements on or at the Leased Area shall at all times comply with all applicable federal, state, and local laws, rules and regulations as they may be enacted or amended from time to time, provided, however, that in the event of an Adverse Legal Change, Tenant may terminate this Lease as set forth above. Tenant will be responsible for obtaining, at its sole cost and expense, all approvals, and permits necessary for the construction of any and all improvements on or at the Leased Area, and the operation and maintenance of said improvements on or at the Leased Area, including, without limitation, any special permits and variances required by local authorities, and approvals and authorizations required by the state and federal authorities -(collectively, "Governmental Approvals"). "**Applicable Law(s)**" means any constitutional provision, law, statute, rule, regulation, bylaw, ordinance, code, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit,

authorization, guideline, governmental approval, consent or requirement of a governmental authority, enforceable at law or in equity, along with the interpretation and administration thereof by any governmental authority, whether now existing or enacted hereafter and affecting the System, the Intended Use, the Leased Premises, or this Lease.

(d) Construction Costs. Tenant will pay all costs and expenses incurred in connection with the design, construction, maintenance, and operation of the System and any and all related improvements on or at the Leased Premises, including utility connections and the cost of electricity and other utilities Tenant consumes in its construction, maintenance and operational activities at the rate charged by the servicing utility company, for which Tenant will make payments directly to said company. Notwithstanding the foregoing, in connection with constructing the System, Tenant may incur directly or indirectly a variety of site development costs including, but not limited to, costs of labor, materials, contractors and subcontractors, costs relative to plan generation, survey costs, costs of disposal, costs of construction of the System, costs of bringing utilities service to the Leased Premises, and other costs.

(e) Removal. Upon expiration or earlier termination of this Lease, Tenant shall remove the System and restore the Leased Premises in accordance with Section 23 of this Lease.

(f) Design of System. Tenant shall design the System to comply with specifications included in all Applicable Laws and Government Approvals, and as otherwise mutually agreed to in writing, by the Landlord and Tenant. If, during the Term, Landlord requests, for Landlord's convenience, the relocation of overhead wires and/or appurtenant equipment or access ways to accommodate future use by the Landlord of the Property outside the Leased Premises, so long as any such change will materially benefit a Party without material detriment to the other Party, and is otherwise permitted by Applicable Laws, Government Approvals and the utility, the Parties commit to each other in good faith to make commercially reasonable efforts to cooperate and assist each other to relocate such equipment or access ways and to amend this Agreement to conform to such changes as necessary; provided that if such relocation is required by the local utility, or as a result of any Applicable Law or Governmental Approval, or pursuant to the order of any court or governmental agency having jurisdiction, or as a result of Tenant's failure to comply with the terms of this Lease, Tenant shall perform such relocation in accordance with such utility requirement, law, regulation, or order and/or the terms of this Lease, as the case may be.

(g) Title to System. The System and all alterations, additions, improvements or installations made thereto by Tenant and all Tenant Property used in connection with the installation, operation and maintenance of the System is, and shall remain, the personal property of Tenant ("***Tenant Property***"). Tenant and/or Tenant's Financing Parties, defined below, shall be the legal and beneficial owner(s) of the System and Tenant Property at all times. In no event shall any of Tenant Property be deemed a Landlord fixture, nor shall Landlord, nor anyone claiming by, through or under Landlord

(including but not limited to any present or future mortgagee of the Leased Premises) have any rights in or to Tenant Property at any time except as otherwise provided herein. Landlord shall have no development or other interest in the System or any System assets or other equipment or Tenant Property installed on the Property, and Tenant may remove all or any portion of the System or any System assets or Tenant Property at any time and from time to time as further provided in this Lease. Without limiting the generality of the foregoing, Landlord hereby waives any statutory or common law lien that it might otherwise have in or to the System and other System assets or any portion thereof. Further, Landlord acknowledges and agrees that Tenant is the exclusive owner of all electricity and all environmental attributes attributable to the System. Landlord and Tenant acknowledge that the Leased Premises are and will remain taxable and that the System may also be taxable and that Tenant will pay any increase in applicable taxes attributable solely to the System, including any land use change tax incurred under 79-A:7 Land Use Change Tax.

(h) Security Interests in the Leasehold Estate and System.

(i) Tenant shall at all times have the right to encumber by mortgage to secure debt, deed of trust, or other instrument in the nature thereof as security for any debt, all of Tenant's leasehold interest in the Leased Premises (the "***Leasehold Estate***"), together with its rights and interests in and to all improvements, the System, and Tenant Property, now or hereafter placed on the Leased Premises by Tenant (a "***Leasehold Mortgage***"), provided however, that any such Leasehold Mortgage shall be subordinate and inferior to Landlord's rights, title, privileges, liens and interests in the Property and provided that Tenant shall, in no event, have the right to, in any way, encumber Landlord's fee simple title and reversionary interest in and to the Property. Any such mortgagee or other entity making a Leasehold Mortgage or otherwise providing capital to Tenant (or an affiliate of Tenant) shall be deemed a "***Financing Party***" or collectively "***Financing Parties***".

(ii) Upon a Financing Party notifying the Landlord in writing that any such mortgage or other instrument in the nature thereof has been given and executed by Tenant, then Landlord hereby acknowledges the Leasehold Mortgage by Tenant to the Financing Party of Tenant's right, title and interest in, to and under this Lease; acknowledges the Financing Party shall have the right but not the obligation to exercise any and all rights of Tenant in this Lease; and acknowledges it has been advised that Tenant has granted a security interest in the System to one or more Financing Parties, and that such Financing Parties have relied upon the characterization of the System as personal property, as agreed in this Lease, in accepting such security interest as collateral for its financing of the System. Any Financing Party shall be an intended third-party beneficiary of this Section 2(h).

(iii) A Financing Party shall, through Tenant, furnish Landlord with the address to which it desires copies of notice to be mailed and Landlord hereby agrees that it will mail to such person or entity at the address so given, duplicate copies of any and all suits filed by Landlord against Tenant and duplicate copies of any and all written notices of default which Landlord may, from time to time, give or serve upon Tenant

under the terms of this Lease or otherwise related hereto. Landlord shall not be in default for failure to give notices to a Financing Party, and such failure shall not affect the validity of notices properly given to Tenant.

(iv) A Financing Party shall have the absolute right to: (a) assign any lien on or security interest in the Lease or Tenant's Leasehold Estate (its "**Lender's Lien**"); (b) enforce its Lender's Lien; (c) acquire title (whether by foreclosure, assignment in lieu of foreclosure or other means) to the Leasehold Estate; (d) take possession of and operate the System or any portion thereof and perform any obligations to be performed by Tenant, or cause a receiver to be appointed to do so; (e) assign or transfer the Leasehold Estate to a third party; or (f) exercise any rights of Tenant hereunder. Landlord's consent shall not be required for any of the foregoing. Upon acquisition of the Leasehold Estate by a Financing Party or any other third party purchaser who purchases at a foreclosure sale, Landlord shall recognize the Financing Party or such other party (as the case may be) as Tenant's proper successor, Financing Party or such other party shall recognize Landlord as the existing landlord, and this Lease shall remain in full force and effect.

(v) A Financing Party shall have the right, but not the obligation, at any time before this Lease is terminated to pay any amount or do any act or thing required of Tenant by the terms of this Lease; and all payments so made and all acts or things so done and performed by any such Financing Party in accordance with the provisions of this Lease, shall be as effective to prevent any termination of the rights of Tenant hereunder as the same would have been if done and performed by Tenant instead of any such Financing Party. Landlord agrees that no Financing Party shall be deemed to incur any liability or obligation under this Lease except and to the extent that Financing Party has acquired the Leasehold Estate created by the Lease or has otherwise assumed such liabilities or obligations. The Financing Party shall be entitled to receive notice of any default by Tenant, provided that Tenant or Financing Party shall have first delivered to Landlord a notice of its interest in the Leasehold Mortgage as set forth in clause (iii), above. If any notice shall be given of the default of Tenant and Tenant has failed to cure such default within the cure period provided in this Lease, then any Financing Party, which has given notice as above provided, shall be entitled to receive an additional notice from Landlord that Tenant has failed to cure such default and such Financing Party shall have thirty (30) days after such additional notice to cure any such default or, if such default cannot be cured within thirty (30) days, to diligently commence curing within such time and pursue such cure to completion within such time Tenant would have been allowed, but as measured from the date of such additional notice.

(vi) If any event of a termination of this Lease because of (a) a default of Tenant that is of such a nature that it cannot be cured by any bona fide Financing Party prior to ripening into a default hereunder; (b) or because of rejection or other termination under the bankruptcy laws that cannot reasonably be prevented by any such Financing Party, or (c) because of Tenant's uncured non-monetary default as long as Financing Party is making commercially reasonable efforts to cure such default, Landlord shall, grant to such bona fide Financing Party the right to enter into a new lease with Landlord

the provisions of which shall be identical to this Lease, and with a lease term to expire at the time that the Term, as later defined, of this Lease would have expired had it not been terminated, and which Lease shall enjoy the same priority as this Lease over any lien, encumbrance or other interest created by Landlord, such right to be communicated by Landlord to said bona fide Financing Party prior to or within one (1) week after such termination ("**Mortgagee Termination Notice**") with said Financing Party having thirty (30) days after receipt of such notice to give notice to Landlord that it will exercise its right to enter into such a new lease (and if such notice has not been given within that period, it shall be conclusively deemed that said grantee, mortgagee or trustee has declined to enter into such a new lease) and provided that said Financing Party shall contemporaneously pay to Landlord any and all sums owed by Tenant and unpaid to Landlord pursuant to this Lease through and including the date of commencement of such new lease, and perform all other unperformed obligations of Tenant that are capable of being performed. Said Financing Party shall prepare, execute, and deliver said new lease to Landlord within thirty (30) days after it has exercised its right therefore by notice to Landlord; provided, however, that the Tenant's obligation to pay "**Rent**" as defined in Section 4 thereunder shall be effective as of the date of receipt of the Mortgagee Termination Notice.

(vii) Any mortgage or instrument in the nature thereof given by Tenant may, if Tenant so desires, be so conditioned as to provide that as between any such Financing Party and Tenant, said Financing Party, on making good any such default or defaults on the part of Tenant, shall be thereby subrogated to any and all of the rights of Tenant under the terms and provisions of this Lease.

(viii) No termination, surrender, or material amendment of this Lease shall be binding upon a Financing Party, if any, without the prior written consent of such Financing Party or as otherwise permitted herein. Notwithstanding the preceding sentence, nothing set forth in this paragraph shall be deemed to limit Landlord's rights or remedies hereunder, including termination of this Lease with respect thereto, after providing the notices and opportunities to cure provided for herein.

(ix) This Lease may, subject to and without waiver of the terms of this Lease, be assigned or transferred to any party (having the financial ability to fulfill all obligations of Tenant under this Lease) as a result of foreclosure or transfer in lieu of foreclosure. Any such Financing Party or transferee of the leasehold estate of Tenant hereunder pursuant to foreclosure, assignment in lieu of foreclosure or other proceedings may, upon such acquisition, without further consent of Landlord, but subject to and without waiver of the terms of this Lease, sell and assign the Lease on such terms and to such persons and organizations as are acceptable to such Financing Party, provided that such assignee has the financial ability to fulfill all obligations of Tenant under this Lease and has delivered to Landlord its written agreement to be bound by all of the provisions of this Lease. Notwithstanding the foregoing, any such assignment shall be subject to all of the terms of this Lease.

(x) A Financing Party shall be entitled to the benefit of an SNDA as

set forth in Section 10 and an Estoppel as set forth in Section 24(g).

3. TERM.

(a) The lease term will commence upon the day this Lease Agreement is executed by both Landlord and Tenant and will expire on the twenty-fifth (25th) annual anniversary of the Commercial Operation Date (the “**Term**”), unless terminated earlier in accordance with the provisions of this Lease. The “**Commercial Operation Date**” is the date on which testing indicates the System is capable of generating electric energy for four (4) continuous hours measured at the physical location where the System connects to the local utility’s electrical grid, using such instruments and meters as have been installed for such purposes, and the interconnection to the local utility’s electrical grid and all required reviews and approvals have been provided by the local electric utility.

(b) The Term may be extended up to (4) consecutive periods of five (5) years each (each, a “**Renewal Term**”), at Tenant’s option upon ninety (90) days advance written notice to Landlord prior to expiration of the Term or current Renewal Term.

4. RENT AND OUTSIDE COD.

(a) Commencing upon the first annual anniversary of the Commercial Operation Date and every year thereafter, Tenant shall pay Landlord annual rent for the prior year’s lease in the amount of \$1,000 per acre utilized for the System as reflected on **EXHIBIT 2** attached hereto and incorporated herein (“**Rent**”). Rent shall escalate for each subsequent year by one and one half percent (1.5%). Exhibit 2 shall be adjusted as necessary to reflect any changes between estimated System size and as-built System size within ninety (90) days of the Commercial Operation Date and pursuant to the procedure set forth in Section 24(a). The estimated System size is 6.2~~[X]~~ acres.

(b) Unless otherwise agreed in writing by Landlord, this Lease shall automatically terminate if the Commercial Operation Date has not occurred by March 2, 2026 (the “**Outside COD**”); provided, however, that if the Commercial Operation Date has not occurred by the Outside COD due to a delay outside Tenant’s control, Tenant may forestall the aforementioned automatic termination through a “**Development Period Extension**” if it continues to actively pursue achievement of the Conditions Precedent (as defined below). Each Development Period Extension shall last twelve months and Tenant shall notify Landlord in writing at least thirty (30) days in advance of the Outside COD or the expiration of a Development Period Extension as applicable to exercise a Development Period Extension.

5. APPROVALS AND INSPECTIONS.

(a) Landlord agrees that Tenant’s ability to use the Leased Premises is contingent upon its suitability for the Intended Use and Tenant’s ability to obtain all governmental licenses, permits, approvals or other relief required of or deemed necessary by Tenant for

the Intended Use. Landlord authorizes Tenant to prepare, execute and file all required applications to obtain Governmental Approvals for Tenant's Intended Use under this Lease. Landlord agrees to reasonably cooperate with Tenant in Tenant's efforts to apply for and obtain all such approvals and agreements, including without limitation executing, as owner of the Property, such applications and authorizations as may be reasonably required by the applicable authority on a timely basis, but at no cost to Landlord, provided Tenant shall have no obligation to pay or reimburse Landlord for any costs or expenses incurred by Landlord in connection with its review of said documents, applications or authorizations.

(b) Tenant has the right to obtain a title report or commitment for a Leasehold Estate title policy from a title insurance company of its choice and to have the Leased Premises surveyed by a surveyor of its choice, all at Tenant's sole cost and expense.

(c) Tenant may also obtain, at Tenant's sole cost and expense, non-invasive tests, surveys, and investigations ("**Tests**") on, over, and under the Property, necessary to determine if Tenant's Intended Use will be compatible with Tenant's engineering specifications, System design, operations or Governmental Approvals. Tenant will indemnify Landlord against all costs (including reasonable attorney's fees), claims, and damages relating to the conducting of said tests and inspections, excepting requirements contained within applicable environmental reporting guidelines and any resulting remediation required of Landlord. Tenant shall restore the Leased Premises to the same condition as it existed prior to Tenant having conducted the Tests, having fully remedied, at the Tenant's own expense, any resulting conditions that place the Landlord in violation of any existing laws or permits. Landlord representatives shall have the right to accompany Tenant and or Tenant's contractor during Tests and Landlord shall approve the scheduling of Tests, provided that such approval shall not be unreasonably conditioned, withheld or delayed.

(d) Tenant's satisfactory inspections of the Leased Premises, title and condition and Tenant obtaining all Governmental Approvals are each a condition precedent to Tenant's obligations under this Lease (the "**Conditions Precedent**"). If Tenant is unsatisfied with the results of the inspection, in Tenant's sole and absolute discretion, or if Tenant is unable to obtain all of the Governmental Approvals in form and substance acceptable to Tenant despite the exercise of all reasonable efforts to obtain such approvals, in Tenant's sole and absolute discretion, or if prior to commencement of construction of the System, despite the exercise of all reasonable efforts: (i) Tenant has not received a satisfactory interconnection service agreement or other required utility approval or (ii) Tenant has not entered into a satisfactory arrangement for selling electricity or environmental attributes or (iii) Tenant has identified unforeseen materially adverse circumstances which prevent the construction of the System, then Tenant may terminate this Lease, in which event the termination shall be effective when the notice is given, and the Parties shall be released from further liability at law or equity pursuant this Lease.

~~(e) The Landlord may terminate this Lease if (i) the System has not achieved the Commercial Operation Date by [X], provided that if the System has not achieved the Commercial Operation Date due to a delay attributable to the local electric utility as part of the interconnection process. Tenant may forestall Landlord's aforementioned termination right through a "*Development Period Extension*" if Tenant continues to actively pursue achievement of the Conditions Precedent. A Development Period Extension shall last twelve (12) months and Tenant shall notify Landlord in writing at least thirty (30) days in advance of July [X] or the termination of a subsequent Development Period Extension to exercise a Development Period Extension.~~

6. Intentionally Omitted.

7. INSURANCE.

(a) Tenant shall carry during the Term of this Lease and any extension or renewal thereof workers' compensation insurance as required by New Hampshire law.

(b) Tenant shall carry during the Term of this Lease and any extension or renewal thereof commercial general liability insurance in the amount of not less than one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) general aggregate, with a \$5,000,000 million umbrella policy. Tenant shall ensure that Tenant's selected engineering, procurement and construction subcontractor shall carry during the construction of the System professional liability insurance in the amount of not less than one million (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) general aggregate. Tenant shall also carry \$1 million (\$1,000,000) in non-owned and hired auto liability single limit coverage, as applicable. Tenant shall also carry property insurance for the replacement value of the System.

(c) The policy of commercial general liability insurance shall name the Landlord as an additional insured. All certificates and policies shall contain the following provisions: Notwithstanding any other provision herein, should any of the above policies be cancelled or materially amended before the expiration date thereof, Tenant shall immediately notify Landlord. Tenant shall forthwith, but at least within ten (10) business days of notice of cancellation secure replacement and retroactive insurance coverage in compliance with the requirements of this Lease and provide notice of same to Landlord.

(d) Tenant shall provide to the Landlord current certificates of insurance from the insurance carrier for each such policy of insurance stating the limits of liability and the expiration date of the policy. Renewal Certificates shall be filed with the Landlord at least ten (10) business days prior to the expiration of the required policies. Certificates evidencing all such coverage shall be provided to the Landlord ten (10) business days prior to the commencement of construction, and upon the renewal of any such coverage. Each such certificate shall specifically refer to this Lease and shall state that such insurance is as required by this Lease.

(e) Tenant shall obtain and maintain during the Term of this Lease insurance coverage issued by companies licensed to do business in the State of New Hampshire.

(f) If the System or Leased Premises shall be damaged or destroyed, in whole or in part, by fire, earthquake, the elements, Act of God or any other casualty, Tenant may, at Tenant's sole discretion, either (1) restore or rebuild the System to a complete and presentable condition and appearance as Tenant desires, although not necessarily of the same size, arrangement or architectural appearance, or (2) terminate this Lease effective as of the date that the System or Leased Premises were damaged or destroyed and place the Leased Premises in the same condition, reasonable wear and tear excluded, as the Leased Premises was in at the execution of this Lease, and remove all improvements, equipment, structures and appurtenances thereupon within one hundred eighty (180) days of the date the System or Leased Premises were damaged or destroyed.~~shall be removed on or before the expiration of one hundred eighty (180) days.~~

(g) Landlord shall maintain throughout the Term, at its sole cost and expense, insurance substantially of the kind and substantially in the amount that it currently maintains for the Property and shall provide a certificate or other reasonable evidence of such insurance to Tenant prior to commencement of construction of the System.

8. INTERFERENCE.

(a) Landlord will not grant, after the date of this Lease, a lease, license or any other right to any third party for use of the Leased Premises under any circumstances, or for use of the Property if such use of the Property may in any way materially and adversely affect or materially or unreasonably interfere with Tenant's System or Intended Use. Landlord will notify Tenant and receive Tenant's written approval, prior to granting any third party the right to use the Property, and Tenant may withhold such consent if in its reasonable discretion it determines such third party will interfere with Tenant's operation of the System or diminish the superiority of Tenant's accessibility to light and solar energy resources.

(b) Landlord will not use, nor will Landlord permit its employees, tenants, licensees, invitees or agents to use, any portion of the Property in any way interferes with the operations of Tenant or the rights of Tenant under this Lease or has a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System or operation thereof. Landlord will exercise all reasonable efforts to cause any such interference to cease upon not more than twenty-four (24) hours' notice from Tenant. In the event any such interference does not cease within the aforementioned cure period then the Parties acknowledge that Tenant will suffer irreparable injury, that an award of damages alone would be inadequate to remedy such a breach, and therefore, Tenant will have the right, in addition to any other rights that it may have at law or in equity, for Landlord's breach of this Lease, to seek to enjoin such interference, to equitable relief, including specific performance, or to terminate this Lease upon written notice to Landlord.

9. INDEMNIFICATION.

(a) Definition. The following term, whenever set forth in initial capitals in this Lease, shall have the meaning set forth in this Article, unless otherwise expressly provided in this Lease:

"Hazardous Materials" means "hazardous materials", "hazardous waste" or "oils" as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601 et seq., as amended, or in the applicable State of New Hampshire statutes and/or policies adopted pursuant to said laws and regulations, and any other similar environmental laws, including, any applicable law relating to Hazardous Materials such as petroleum, asbestos and asbestos-containing material.

(b) Landlord Indemnity. Landlord agrees to indemnify and hold harmless Tenant against all losses, costs, damages, claims, lawsuits, liability and cleanup obligations arising in connection with: (i) illness, bodily injury, and/or death of Landlord personnel, employees, nonemployees, contractors, invitees and the like on the Leased Premises caused by Landlord; (ii) damage to or loss of property of Landlord and Landlord's personnel, employees, non-employees, contractors, invitees and the like on the Leased Premises caused by Landlord; and (iii) an exacerbation of the Leased Premises' environmental remediation efforts caused by Landlord's actions, including, but not limited to, an introduction or release of Hazardous Materials not present upon the Effective Date, as well as any Hazardous Materials present on the Leased Premises upon the Effective Date. The foregoing indemnity shall survive the expiration or termination of this Lease and/or any transfer of all or any portion of the Leased Premises, and/or any transfer of all or any portion of any interest in this Lease, and is in addition to and not in limitation of any other rights and remedies available to Tenant.

(c) Tenant Indemnity. Tenant agrees to indemnify and hold harmless Landlord against all losses, costs, damages, claims, lawsuits, liability and cleanup obligations arising in connection with: (i) illness, bodily injury, and/or death of Tenant personnel, employees, non-employees, contractors, invitees and the like on the Leased Premises caused by Tenant; (ii) damage to or loss of property of Tenant and Tenant's personnel, employees, non-employees, contractors, invitees and the like on the Leased Premises caused by Tenant; and (iii) an exacerbation of the Leased Premises' environmental remediation efforts caused by Tenant's actions, including, but not limited to, an introduction or release of Hazardous Materials not present upon the Effective Date. The foregoing indemnity shall survive the expiration or termination of this Lease and/or any transfer of all or any portion of the Leased Premises, and/or any transfer of all or any portion of any interest in this Lease, and is in addition to and not in limitation of any other rights and remedies available to Landlord.

10. WARRANTIES AND COVENANTS.

(a) Tenant and Landlord each acknowledge, represent, and covenant that it is duly organized, validly existing and in good standing and has the right, power and authority to enter into this Lease and bind itself hereto through the Party set forth as signatory for the Party below.

(b) Landlord represents:

(i) Landlord solely owns an undivided interest in the Property as a legal lot in fee simple, unencumbered by any liens, restrictions, mortgages, covenants, conditions, easements, leases, agreements, of record or not of record, which would adversely affect Tenant's Intended Use of the Property under this Lease.

(ii) the person(s) signing this Lease have full authority to execute this Lease and after said execution it shall be binding upon the Landlord.

(iii) as of the date hereof, Landlord has no outstanding or existing mortgages on the Property.

(iv) there are no outstanding written leases, purchase or sale agreements or other agreements to which Landlord is a signatory, including rights to purchase, or restrictions, including permits granted to persons other than Tenant, encumbering or in any way affecting the Property or Leased Area, and no person that would prevent or interfere with any of Tenant's rights under this Lease;

(v) Landlord has no knowledge of any pending proceedings in eminent domain, or for a sale in lieu thereof, affecting the Property or Leased Premises or any portion thereof.

(vi) Landlord covenants that Tenant shall have quiet and peaceful possession of the Leased Area without hindrance to or interference with or molestation of Tenant's quiet enjoyment thereof by Landlord, throughout the Lease Term.

(vii) Landlord will not conduct activities on, in or about the Property or Leased Premises that have a reasonable likelihood of materially and adversely affecting the System or operation thereof. The System shall be operated, maintained and repaired by Tenant at its sole cost and expense; provided, that any costs incurred by Tenant including lost revenues as a result of Landlord's actions shall be promptly reimbursed to Tenant by Landlord and Landlord shall equitably abate the rent for a commercially reasonable period until the System has been restored.

(c) Tenant represents:

(i) it is experienced in the operation, development and construction of the System for its Intended Use and has done so successfully in other locations of similar size.

(ii) its execution and performance of this Lease will not violate any bylaws, rules, agreements, articles of organization or votes of the company or the provisions of any mortgage, lease or other agreement binding on the Tenant.

(iii) the person(s) signing this Lease have full authority to execute this Lease and after said execution it shall be binding upon the Tenant.

(iv) the Tenant will comply with all Applicable Laws, including Environmental Laws, applicable to the Leased Premises and the Property.

(v) notwithstanding anything to the contrary in this Lease but subject to Tenant's right to terminate this Lease under Section 5(d), Tenant accepts the Leased Premises "as is" and with any and all defects, and without benefit of any services, facilities, improvements or modifications to be made by Landlord, and without any representation or warranty of any kind by Landlord, and without any recourse against Landlord as to the title to and the nature, condition or usability of the Leased Premises, or as to the use(s) to which the Property and Leased Premises or any part thereof have been put except as otherwise detailed in this Lease.

(d) Runs with Land; SNDA. This Lease and the easements and other rights granted herein shall run with the Property and survive any transfer of the Property. If the Property is to be encumbered by an instrument to be given by Landlord in order to secure a debt, mortgage or other security interest, Landlord shall require the holder of such instrument to sign a mutually agreeable subordination, nonDisturbance and attornment agreement executed on behalf of any and all mortgagee(s) or beneficiaries of deeds of trust securing such a loan (the "*SNDA*"). The SNDA shall be commercially reasonable in form and substance, and shall include language similar to the following: So long as Tenant is not in default of this Lease, (i) such mortgagee(s) or beneficiaries shall recognize and consent to Tenant's rights under this Lease; (ii) Tenant shall continue to enjoy the uninterrupted possession of the Leased Premises and such other rights as are granted hereunder; (iii) such mortgagees or beneficiaries shall have no right to receive any proceeds of insurance for condemnation owed to Tenant under the terms of this Lease; (iv) shall acknowledge that such mortgagees or beneficiaries shall not gain any interest in the System or Tenant's Property, including without limitation by virtue of the transfer or by performance or breach of this Lease; and (v) shall waive any lien such mortgagees or beneficiaries may have in and to the System and Tenant's Property. Tenant shall cause such SNDA to be recorded in the appropriate county office, and deliver a recorded copy to Landlord.

11. ENVIRONMENTAL.

(a) Definition. The following term, whenever set forth in initial capitals in this Lease, shall have the meaning set forth in this Article, unless otherwise expressly provided in this Lease:

“Environmental Laws” means any applicable federal, state or local statute, law, ordinance rule, regulation, code, license, permit, authorization, approval, consent, order, judgment, decree, injunction, directive, requirement by, of, or agreement with any governmental agency, existing as of the date this Lease is fully executed and as amended thereafter, relating to: (a) the protection, preservation or restoration of the environment (including, without limitation, air, water, vapor, surface water, ground water, drinking water supply, surface land, subsurface land, plant and animal life, or any other natural resource), or to human health and safety; (b) the exposure to, or the use, storage, recycling, treatment, generation, transportation, processing, handling, labeling, production, release or disposal of, Hazardous Materials; (c) any common law or equitable doctrine (including, without limitation, injunctive relief and tort doctrines such as negligence, nuisance, trespass and strict liability) that may impose liability or obligation for injuries or damages related or incidental to, or threatened as a result of, the presence of or exposure to any Hazardous Materials, and (d) any common law or equitable doctrine currently existing and as amended, enacted, issued or adopted in the future which are or become applicable to the Property.

(b) Tenant shall not introduce, release or discharge, or cause the introduction, release or discharge of, any Hazardous Materials in, on over, or under the Property or Leased Premises. In the event Tenant becomes aware of any such Hazardous Materials, it shall immediately notify the Landlord in writing of the type and location of such Hazardous Materials.

(c) Landlord Representations. Landlord represents warrants and covenants to Tenant with regard to the Leased Area only:

(i) the Leased Area is not the subject of any existing, pending or threatened investigation, action, claim or proceeding by any governmental agency or third party pursuant to any Environmental Laws;

(ii) Landlord has not installed, used or operated, and has no knowledge of the presence or existence of any underground storage tanks on, under or around the Leased Area which may interfere with construction of the System;

(iii) Landlord has no knowledge of and has not received any notice of any present, uncured violation of any Environmental Laws at the Leased Area;

(iv) Landlord has no reasonable knowledge of any use, storage, treatment, generation, disposal or transportation of Hazardous Substances in violation of any Environmental Laws during Landlord’s ownership in on or under the Property; and

(v) Landlord and Tenant shall exercise reasonable efforts to continue to comply with all applicable Environmental Laws.

(d) Landlord or Tenant Default. If either Party defaults in any of the provisions set forth in this Article, and fails to cure such default within thirty (30) days after receipt from the non-defaulting Party specifying the failure, or if such default is not capable of being cured within thirty (30) days, fails to diligently commence to cure such default within thirty (30) days and if such efforts are not prosecuted to completion with reasonable diligence, then the non-defaulting Party shall have the right to terminate this Lease and all of its obligations hereunder by giving written notice to the defaulting Party pursuant to the procedure set forth in Section 15(d), reserving, however, in the event of such termination, the non-defaulting Party's right to collect damages as a result of such breach by defaulting Party and to seek indemnification from the defaulting Party. Further, in the event of such Lease termination, the defaulting Party shall reimburse the non-defaulting Party for its costs and expenses incurred in connection with this Lease, including, without limitation, reasonable legal fees and construction and engineering fees and expenses, fines, and reconstruction work.

12. ACCESS.

(a) At all times throughout the Term of this Lease, Tenant and its employees, agents, and subcontractors, will have twentyfour (24) hour, seven days per week access to and over the Leased Premises for the installation, maintenance and operation of the System and any utilities serving the Leased Premises and for up to one hundred and eighty (180) days ~~so long as needed~~ after expiration or termination of the Lease to remove the System.

(b) Landlord hereby acknowledges that the Leased Premises shall be for a solar power generation facility and, notwithstanding anything to the contrary contained herein, and except in the case of an emergency Landlord and its agents and employees shall not access the System or Leased Premises unless accompanied by a representative of Tenant.

13. SYSTEM AS PERSONAL PROPERTY

All portions of the System brought onto the Property by Tenant will be and remain Tenant's personal property. Landlord covenants and agrees that no part of the System constructed, erected or placed on the Property by Tenant will become, or be considered as being affixed to or a part of, the Property, it being the specific intention of the Landlord that all improvements of every kind and nature constructed, erected or placed by Tenant on the Property will be and remain the property of Tenant and may be removed by Tenant at any time during the Term and shall be removed by Tenant at the end of the Term as set forth herein, subject to Section 23, unless the Parties agree otherwise in writing as an amendment hereto.

14. MAINTENANCE, UTILITIES.

(a) Tenant will keep and maintain the Leased Premises in good condition, reasonable wear and tear and damage from the elements excepted. Tenant shall provide Landlord a right of first offer to provide mowing services for the Leased Premises.

(b) Tenant will be solely responsible for and promptly pay all utilities charges for electricity, telephone service or any other utility used or consumed by Tenant on the Leased Premises.

(c) Landlord shall give Tenant prompt notice if it becomes aware, through the practice of any routine observation of the area, of any damage to or defective condition of the System and/or Leased Premises, provided that Landlord is not under any obligation to observe, investigate or monitor the System or the Leased Premises for any such damage or condition, and provided further that the good faith failure of Landlord to observe any such damage or condition or provide notice of the same to Tenant shall not constitute a breach of this Lease by Landlord.

(d) Landlord acknowledges and agrees that access to sunlight ("*Insolation*") is essential to the value to Tenant of the Leasehold Estate granted hereunder and is a material inducement to Tenant in entering into this Lease. Accordingly, except to the extent of any activities required by Applicable Laws, Landlord shall not permit any interference with Insolation on and at the Leased Premises, the Property, or any adjoining real property owned by Landlord. Without limiting the foregoing, Landlord shall not construct or permit to be constructed any structure on the Property, or adjoining real property owned by Landlord, that could adversely affect Insolation levels, permit the growth of foliage that could adversely affect Insolation levels, or directly emit or permit the emission of suspended particulate matter, smoke, fog or steam or other air-borne impediments to Insolation other than as may arise from vehicles or the operation of Landlord's transfer station. Subject to Applicable Laws, Landlord hereby grants to Tenant the right to trim and to cut down and clear away any trees and foliage now or hereafter located on the Property which now or hereafter in the reasonable opinion of Tenant may adversely affect Insolation levels. Notwithstanding any other provision of this Lease, the Parties agree that Tenant would be harmed by a breach of the provisions of this section, that an award of damages would be inadequate to remedy such breach, and that Tenant shall be entitled to seek equitable relief, including specific performance, to compel compliance with the provisions hereof, however, Tenant shall provide Landlord with five (5) business days prior notice to taking any action to exercise the rights granted under this subsection (d).

15. DEFAULT AND RIGHT TO CURE.

(a) The following will be deemed a default by Tenant and a breach of this Lease:

(i) nonpayment of Rent if such rent remains unpaid for more than thirty (30) days after receipt of written notice of such failure to pay from Landlord; or

(ii) Tenant's failure to perform any other term or condition under this Lease within fortyfive (45) days after receipt of written notice from Landlord specifying the failure.

No such failure, however, will be deemed to exist if Tenant has commenced to cure such default within such period provided that such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Tenant. If Tenant remains in default beyond any applicable cure period, Landlord will have the right to exercise any and all rights and remedies available to it under law and equity.

(b) The following will be deemed a default by Landlord and a breach of this Lease: Landlord's failure to perform any material term or material condition under this Lease within fortyfive (45) days after receipt of written notice from Tenant specifying the failure. No such default, however, will be deemed to exist if Landlord has commenced to cure the default within such period and provided such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Landlord. If Landlord remains in default beyond any applicable cure period, Tenant will have the right to exercise any and all rights available to it under law and equity.

(c) Cures - Rights, Costs and Damages. If either Party shall default in the performance of any material covenant, term, provision, limitation, or condition contained in this Lease beyond the expiration of all applicable notice and cure periods, the non-defaulting Party, without being under any obligation to do so and without waiving such default, may remedy such default for the account of the defaulting Party, (i) immediately upon notice in the case of emergency or if necessary to protect public health or safety, or to avoid forfeiture of a material right, or (ii) in any other case only provided the defaulting Party shall fail to remedy such default within the applicable cure period set out above. All costs reasonably incurred by the non-defaulting Party to remedy such default (including, without limitation, all reasonable attorney's fees), shall be at the expense of the defaulting Party.

(d) Termination. This Lease may be terminated by either Party on thirty (30) days prior written notice if the other Party remains in default under Section 15 of this Lease after the expiration of applicable cure periods.

16. CONSTRUCTION AND OPERATION.

(a) General Description. Except as otherwise specified herein, the System shall consist of the improvements that Tenant deems necessary or desirable for the Intended Use.

(b) Completion Requirements. Tenant will cause the construction of the System to be performed and completed in a good, careful, proper and workmanlike manner, and

in accordance with good engineering practices and all Applicable Laws and Governmental Approvals. The System will, when completed and during operations, comply with all Applicable Laws and Government Approvals.

(c) Interconnection with Electric Grid. Tenant will apply at its sole cost for all approvals and agreements required for Tenant's interconnection of the System to the electric grid. As owner of the Property, Landlord shall cooperate with Tenant in Tenant's efforts to apply for and obtain all such approvals and agreements, including without limitation, executing, as owner of the Property, such applications and authorizations as may be reasonably required by the applicable authority (on a timely basis but in no event more than ten (10) business days after Landlord's receipt of Tenant's request therefor).

17. ASSIGNMENT/SUBLEASE.

Tenant shall not assign, sublet or otherwise transfer or encumber all or any part of Tenant's interest in this Lease without the prior written consent of the Landlord, which consent shall not be unreasonably conditioned, withheld or delayed. Notwithstanding the foregoing, Tenant may assign this Lease or sublet all or any part of the Leased Premises without the consent of Landlord to (i) a parent, subsidiary or affiliated corporation, partnership or other affiliated business entity (which shall be an entity which directly or indirectly, controls or is controlled by Tenant or Tenant's parent company or which is under common control with Tenant, Tenant's parent or any other affiliate of Tenant), (ii) to a franchisee or dealer of Tenant or a franchisee or dealer of an affiliate of Tenant, (iii) to a purchaser of all or a portion of the System, (iv) to a purchaser of all or substantially all of the assets of Tenant, (v) a third party in connection with any merger, consolidation or sale of all or substantially all of the assets or equity interests of Tenant, or (vi) in connection with a financing of the System. A sale of any or all of the shares of Tenant (or its parent, if applicable) shall not be considered an assignment of this Lease and shall not require consent of Landlord, provided that (a) Tenant has paid any and all rents due and personal property taxes due. Tenant shall provide written notice to Landlord of any assignment permitted by this Section 17 within (10) ten business days of such assignment.

18. NOTICES.

(a) All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered, or by email. Email notices shall require confirmation of receipt. Notice will be addressed to the Parties at the addresses set forth below. Either Party hereto may change the place for the giving of notice to it by thirty (30) days written notice to the other as provided herein.

(b) Notice shall be made to the following:

Landlord: Town of Conway
Attn: Director of Public Works
23 Main Street
Conway, NH 03818[X]

Tenant: Kearsarge Solar LLC
Attn: Andrew Bernstein
1380 Soldiers Field Road, Suite 3900
Boston, MA 02135

19. SEVERABILITY.

If any term or condition of this Lease is found unenforceable, the remaining terms and conditions will remain binding upon the Parties as though said unenforceable provision were not contained herein. However, if the invalid, illegal or unenforceable provision materially and adversely affects this Lease for either Party, then this Lease may be terminated by the affected Party on ten (10) business days prior written notice to the other Party hereto.

20. CONDEMNATION.

In the event Landlord or Tenant receives notification of any condemnation proceedings affecting the Property, Landlord or Tenant, as the case may be, will exercise reasonable efforts to provide notice of the proceeding to the other Party within fortyeight (48) hours, provided that the good faith failure to provide such notice shall not constitute a default of this Lease. If a condemning authority takes all of the System and/or Leased Premises, or a portion sufficient, in Tenant's reasonable determination, to render the System and/or Leased Premises unsuitable for Tenant's Intended Use and Tenant provides written notice to Landlord of Tenant's determination, this Lease will terminate as of the date the title vests in the condemning authority, and Landlord and Tenant may each assert claims against the condemning authority for just and adequate compensation for their respective losses in accordance with Applicable Laws.

21. CASUALTY.

Landlord and Tenant will provide notice to the other of any casualty affecting the Leased Premises as soon as reasonably practicable, but no later than within seventy-two (72) hours of such Party becoming aware of the casualty. Landlord shall promptly repair the damage to the Property, unless caused by the Tenant in which case the Tenant shall restore and repair. Tenant shall promptly repair the damage to the System if Tenant determines in its reasonable discretion the System can be restored, and Landlord shall equitably abate the rent for a commercially reasonable period until the System has been restored. If, however, the Tenant determines the damage to the System is irreparable, Tenant may terminate this Lease after written notice to Landlord.

22. LIENS.

(a) Landlord hereby waives any and all lien rights it may have, statutory or otherwise, concerning the System or any portion thereof. The System shall be deemed personal property for purposes of this Lease, regardless of whether any portion is deemed real or personal property under applicable law, and Landlord hereby consents to Tenant's right to remove all or any portion of the System if Tenant vacates the Property.

(b) **Mechanic's Liens.** Except for Leaschold Mortgages granted in accordance with and subject to Section 2(h) of this Lease, Tenant shall not create, or suffer to be created or to remain, and shall promptly discharge, any mortgage, liens (including mechanic's, laborer's or materialman's lien) or any other encumbrances (each a "**Lien**" and collectively "**Liens**") upon the Property, Leased Premises or the System or the income therefrom and Tenant will not suffer any other matter or thing arising out of Tenant's use and occupancy of the Leased Premises whereby the estate, rights and interests of Landlord in the Property or Leased Premises or any part thereof might be impaired, except in accordance with and subject to the provisions of this Lease.

(c) If any Lien shall at any time be filed against the Property or Leased Premises as a result of the Intended Use or any other activities of any Tenant Parties in connection with this Lease, or as a result of the System, Tenant, within a reasonable time after Tenant becomes aware of the filing thereof or, if Tenant contests such Lien, after the unsuccessful conclusion of such contest, shall cause such lien to be discharged of record by payment, deposit, bond, insurance, order of court of competent jurisdiction or otherwise. If Tenant shall fail to cause such lien to be discharged within the period aforesaid, then, in addition to any other right or remedy, Landlord may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding. Any amount so paid by Landlord and costs and expenses reasonably incurred by Landlord in connection therewith, together with interest thereon at the Interest Rate from the respective dates of Landlord's making of the payment of the cost and expenses, shall be paid by Tenant to Landlord within ten (10) business days of Landlord's invoice therefor.

(d) Landlord shall not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, liens (including mechanics', labor or materialman's lien), charge, security interest, or other encumbrances (each a "**Lien**" and collectively "**Liens**") on or with respect to Tenant's leasehold interest in the Premises or -the System or any interest therein. If Landlord breaches its obligations under this section, Landlord shall (i) promptly notify Tenant in writing, (ii) and promptly cause such Lien to be discharged and released of record without cost to Tenant. If Landlord shall fail to cause such lien to be discharged within the period aforesaid, then, in addition to any other right or remedy, Tenant may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding. Any amount so paid by Tenant and costs and expenses reasonably incurred by Tenant in connection therewith, together with interest thereon at the Interest Rate from the respective dates of Tenant's making of the payment of the cost and expenses, shall be paid by Landlord to Tenant within ten (10) business days of Tenant's invoice therefor.

(e) If there is any mortgage or fixture filing against the Property or Leased Premises which could reasonably be construed as attaching to the System(s) as a fixture of the Property or Leased Premises, Landlord shall provide a disclaimer (of the System as a fixture) or obtain, for mortgages granted by Landlord, an SNDA, as described in Section 10(d), from such mortgagee. Landlord consents to the filing by Tenant, on behalf of Landlord, of a disclaimer of the System(s) as a fixture of the Property or Leased Premises in the office where real estate records are customarily filed in the jurisdiction of the Property.

23. REMOVAL AND RESTORATION.

Removal and Restoration. Upon the expiration or earlier termination of the Lease, Tenant shall, within one hundred eighty (180) days of such expiration or termination, at its sole cost, remove and, in accordance with Applicable Laws, dispose of the System and all Tenant Property. During the Decommissioning Period, Tenant shall remove all components of the System ~~up to 24 inches below grade~~ and restore the Leased Area to a condition comparable to that as of the Effective Date, provided that Tenant shall not be obligated to (i) replant any trees or other plants to replace any plants removed to install the System, (ii) regrade the Leased Area, or (iii) remove any roads or access ways installed by Tenant.

24. MISCELLANEOUS.

(a) Amendment; Waiver. This Lease cannot be amended, modified or revised unless done in writing and signed by an authorized agent of the Landlord and an authorized agent of Tenant. No provision of this Lease may be waived except in a writing signed by the Party making the waiver. Forbearance or indulgence in any form or manner by a Party shall not be construed as a waiver, nor in any manner limit the legal or equitable remedies available to that Party. No waiver by either Party of any default or breach of this Lease shall constitute a waiver of any subsequent default or breach of a similar or different nature.

(b) Short Form Lease. Either Party will, at any time upon fifteen (15) business days prior written notice from the other, execute, acknowledge and deliver to the other a recordable Memorandum of Lease. Either Party may record this memorandum at any time, in its absolute discretion.

(c) Bind and Benefit; No Third-Party Beneficiaries. The terms and conditions contained in this Lease will run with the Property and inure to the benefit of the Parties, their respective heirs, executors, administrators, successors and assigns. Subject to subsection 2(h)(ii), there are no third-party beneficiaries under this Lease and no right or cause of action shall accrue to any other party not a signatory to this Lease.

(d) Entire Agreement. This Lease and the attachments and exhibits attached constitute the entire agreement of the Parties hereto and will supersede all prior offers, negotiations and agreements.

(e) Governing Law / Forum. This Lease will be governed by the laws of the State of New Hampshire, without regard to conflicts of law. Any and all proceedings or actions relating to subject matter herein shall be brought and maintained in the courts of New Hampshire or the federal district court sitting in New Hampshire, which shall have exclusive jurisdiction thereof. The parties waive any and all rights to a jury trial. This paragraph shall not be construed to limit any other legal rights of the Parties other than as expressly provided in this paragraph.

(f) Interpretation. Unless otherwise specified, the following rules of construction and interpretation apply:

(i) captions are for convenience and reference only and in no way define or limit the construction of the terms and conditions hereof;

(ii) use of the term "including" will be interpreted to mean "including but not limited to";

(iii) whenever a Party's consent is required under this Lease, except as otherwise stated in the Lease or as same may be duplicative, such consent will not be unreasonably withheld, conditioned or delayed;

(iv) attachments and exhibits are an integral part of this Lease and are incorporated by reference into this Lease; and

(v) reference to a default will take into consideration any applicable notice, grace and cure periods.

(g) Estoppels. Either Party will, at any time upon ten (10) business days prior written notice from the other, execute, acknowledge and deliver to the other a statement in writing stating, to the actual knowledge of such Party without waiver of rights (i) that this Lease has not been amended and is in full force and effect (or, if amended, stating the nature of such amendment and certifying this Lease, as so amended, is in full force and effect) and the date to which the rent and other charges are paid in advance, if any, (ii) the date of commencement and termination of the Term, (iii) the date to which rental and other charges hereunder are paid currently without any offset or defense thereto (or stating such offset or defense), (iv) the amount of rental and all other charges hereunder, if any, paid in advance, (v) that there are not, to such Party's actual knowledge, any uncured defaults on the part of the other Party hereunder, or specifying such defaults if any are claimed, or (vi) any other matter within this Lease for which a Party reasonably requests the other Party to make a representation and in the event the Tenant requires the Landlord to make any other representation which are of such other matters as the requesting Party shall reasonably request, then. For all requests made on a Party

~~Landlord~~ under this section, ~~the Party~~ Tenant shall reimburse ~~the other Party~~ Landlord for reasonable attorneys' fees associated therewith. In the event that Tenant requests that Landlord provide ~~an~~ such an estoppel, it shall not be unreasonable for Landlord to request of Tenant a similar estoppel, with which request Tenant shall comply.

(h) No Option. The submission of this Lease for examination or consideration does not constitute a reservation of or option for the Property. This Lease will become effective as an Agreement only upon the legal execution, acknowledgment and delivery hereof by Landlord and Tenant.

(i) Force Majeure. To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this Lease, and such Party (the "**Claiming Party**") gives written notice and details of the Force Majeure to the other Party as soon as practicable (and in any event within five (5) business days after the Force Majeure first prevents performance by the Claiming Party), then the Claiming Party will be excused from the performance of its obligations under this Lease. The Claiming Party will use all commercially reasonable efforts to eliminate or avoid the Force Majeure and resume performing its obligations hereunder; provided, however, that neither Party is required to settle any strikes, lockouts or similar disputes except on terms reasonably acceptable to such Party. The non-Claiming Party will not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligation(s) of the Claiming Party excused by Force Majeure (other than the obligation to make payments of Rent, Taxes and other monetary charges then due by Lessee, and except as otherwise provided herein).

For purposes of this subsection, Force Majeure means strikes, failure of power—excepting only any failure of power that is attributable to factors within Tenant's control and the functioning or operation of the System, riots, insurrection, war, pandemics, earthquake, hurricane or tornado (or comparable weather conditions of unusual severity), or other reasons of an extraordinary nature which are beyond the reasonable control of the claiming Party and which could not have been avoided through the exercise of due diligence by the claiming Party. The following shall not constitute Force Majeure: (i) the financial inability of a Party to perform its obligations under this Lease; or (ii) delays occurring in the course of complying with Applicable Law that could have been avoided through the exercise of reasonable due diligence by a Party hereto.

(j) Notice of Dispute/Negotiated Resolution. In the event of any controversy, claim or dispute between the Parties hereto, other than Tenant's failure to promptly pay Rent, or other charges due hereunder, arising out of or related to this Lease, or the breach hereof, that has not been resolved by informal discussions and negotiations, either Party may, by written notice to the other, invoke the formal dispute resolution procedures set forth herein. The written notice invoking these procedures shall set forth in reasonable detail the nature, background and circumstances of the controversy, claim or dispute. During the five (5) business day period following such written notice, the Parties shall meet, confer and negotiate in good faith to resolve the dispute.

If the Parties are unable to successfully resolve any dispute under this Lease as set forth in (k) above, then in that event the dispute may be filed with a court of competent jurisdiction or submitted to mediation, as outlined below.

The dispute shall be mediated in the following manner:

The dispute shall be submitted for mediation and not arbitration, with each Party paying its own mediation costs and attorney's fees;

- (i) The Parties shall select a mediator to mediate the dispute with each Party sharing equally the cost of mediation;
- (ii) The dispute shall be submitted for mediation within fourteen (14) days of the five (5) business day period above in which the Parties themselves have been unsuccessful in resolving the dispute; and
- (iii) The mediation shall not be final and binding as would be the case with an arbitration proceeding, and if the mediation is not successful, then either Party shall have all remedies and rights in accordance with the provisions of New Hampshire law.

(l) Counterparts. This Lease may be executed in several counterparts, each of which is an original and all of which together constitute one and the same instrument. A signature on a copy of this Lease received by either Party by electronic transmission is binding upon the other Party as an original. Both Parties agree that a photocopy of such facsimile may also be treated by the Parties as a duplicate original.

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IN WITNESS WHEREOF, the Parties have executed this Lease.

Landlord

Town of Conway[X]

By: _____

Name: Mary Seavey[X]

Title: Chairman of the Board of Selectmen[X]

Tenant

Kearsarge Solar LLC

By: _____

Name: Andrew J. Bernstein

Title: Manager

EXHIBIT 1
Leased Area

EXHIBIT 2

RENT

Year	Annual Rent Payment
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