Chapter 190

ZONING

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[HISTORY: Adopted by the Town of Conway as last amended 4-9-2013. Subsequent amendments noted where applicable.[1]]

GENERAL REFERENCES

Drainage systems — See Ch. 41.

Excavations — See Ch. 47.

Hazardous wastes — See Ch. 67.

Sewers — See Ch. 105.

Site plan review — See Ch. 110.

Special events — See Ch. 120.

Streets and sidewalks — See Ch. 125.

Subdivision of land — See Ch. 130.

Wind energy systems — See Ch. 179.

1. Editor's Note: The Town took action 4-11-2017 ATM by Art. 2 to accept the renumbering of and revisions to this chapter.

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§ 190-1. Title.

This chapter shall be known and may be cited as the "Zoning Ordinance of the Town of Conway, New Hampshire."

§ 190-2. Authority.

This chapter is enacted by the Town of Conway pursuant to the authority granted by the New Hampshire Legislature as stipulated in RSA 674:16, as amended.

§ 190-3. Purpose.

The purpose of this chapter is:

A. To lessen congestion in the streets;

B. To secure safety from fires, panic and other dangers;

C. To promote health and the general welfare;

D. To provide adequate light and air;

E. To prevent the overcrowding of land;

F. To avoid undue concentration of population;

G. To facilitate the adequate provision of transportation, solid waste facilities, water, sewerage, schools, parks, child day care;

H. To assure proper use of natural resources and other public requirements;

I. To encourage the preservation of agricultural lands and buildings; and

J. To encourage the installation and use of solar, wind, or other renewable energy systems and protect access to energy sources by the regulation of orientation of streets, lots, and buildings; establishment of maximum building height, minimum setback requirements, and limitations on type, height, and placement of vegetation; and encouragement of the use of solar skyspace easements under RSA Ch. 477.

§ 190-4. Applicability.

This chapter shall apply to:

A. All buildings or structures erected, reconstructed, altered, enlarged, or relocated after the effective date of this chapter or applicable amendment;

B. The use of any building, structure, or land which is different from its use prior to the effective date of this chapter or applicable amendment; and

C. Any land which has been subdivided after the effective date of this chapter or applicable amendment.

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§ 190-5. Interpretation.

In interpreting any provision of this chapter, it shall be held as the minimum requirement adopted for the promotion of the public health, safety, and general welfare of the Town. Whenever any provision of this chapter is at variance with any other provision of this chapter, or with the requirements of any other lawfully adopted rule or regulation, the most restrictive, or that imposing the highest standard, shall govern. [RSA 676:14] This chapter is constructed as a permissive zoning ordinance; if a use is not identified as a permitted use or a use permitted by special exception in a zoning district, then the use is not permitted in that zoning district.

§ 190-6. Enforcement; violations and penalties.

A. It shall be the duty of the Board of Selectmen or its designated officer to:

(1) Generally administer this chapter.

(2) Require a building permit prior to erection, alteration or demolition of any structure and certificate of compliance upon completion and prior to use.

B. Violations and penalties.

(1) Pursuant to RSA 676:17, any person who violates any of the provisions of RSA Title LXIV, Planning and Zoning, or any Town of Conway ordinance, code or regulation adopted under said title, or any provision or specification of any application, plat, or plan approved by or any requirement or condition of a permit or decision issued by any authorized local official or land use board:

(a) Shall be guilty of a misdemeanor if a natural person or guilty of a felony if any other person.

(b) Shall be subject to a civil penalty not to exceed the maximum allowable under RSA 676:17 for each day such violation is found to continue after the conviction date or after the date on which the violator receives written notice of the violation from the Town, whichever is earlier.

(c) The Town may also recover its costs and reasonable attorney's fees actually expended in pursuing the legal action, as well as seek reimbursement for the expenditure of public funds, if it is found to be a prevailing party in the action, pursuant to RSA 676:17, II and III.

(2) Pursuant to RSA 676:17-a, Cease and Desist Orders, the Building Inspector, Code Enforcement Officer, or other designated officer of the Board of Selectmen may issue a cease-and-desist order against any violation set forth in Subsection B(1)(a) above.

(3) Pursuant to RSA 676:17-b, Land Use Citations, the Building Inspector, Code Enforcement Officer, or other designated officer of the Board of Selectmen may choose to charge the offense as a violation and issue a local land use citation and seek a civil penalty as set forth in RSA 676:17. The prosecuting official may also serve additional local land use citations, without giving additional written notice or appeal opportunity, if the facts or circumstances constituting the violation continue beyond the date or dates of any prior citation, pursuant to RSA 676:17-b, VII. **[Amended 4-11-2017 ATM by Art. 2]**

(4) For trees removed in violation of this chapter, the violation and fine shall continue daily, with

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each day a separate violation until trees are replaced with equivalent trees.

§ 190-7. Zoning Board of Adjustment.[2] [Amended 4-11-2017 ATM by Art. 2]

There shall be a five-person Zoning Board of Adjustment and up to five alternates appointed by the Selectmen, as provided by state statute, who may, upon application, review and decide on alleged errors in an administrative finding or grant of a variance to provide relief from hardship, provided that the proposed land use is in conformance and does not constitute a nuisance or hazard to the neighborhood.

§ 190-8. Compliance required.

All buildings and all land shall hereafter be used, laid out, constructed or altered only in conformity with the permitted uses and density requirements for the districts in which they are located.

§ 190-9. Lots in multiple districts.

If an existing lot of record falls into more than one zoning district and if 60% or more of that lot lies within a commercial district (CCVC, CVC, NCVC, HC), the regulation of that commercial district may, at the owner's option, apply to the entire lot. This amendment reaffirms that an existing lot of record is one which existed prior to the adoption of this chapter.

§ 190-10. Helicopters.

A. No helicopter or other rotary-wing aircraft capable of a vertical take-off and landing profile may land or take-off in the Town of Conway, except for properly licensed helicopters providing medical and related evacuation services and emergency services essential to the public health and safety, such as search and rescue, firefighting, law enforcement and other related services. No landing or take-off of commercial scenic helicopter tours or chartered flights shall be allowed in the Town of Conway.

B. The following may be allowed by special exception: The Zoning Board of Adjustment (ZBA) may approve helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term nature. No approval for a special exception under this section shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to the Town residents and their property.

§ 190-11. Utilities.

All utility systems shall be placed underground in conformity with the terms and specifications of the utility company involved.

§ 190-12. District regulations and permitted uses.

The following restrictions and provisions in §§ 190-13 through 190-30 are applicable for each district as indicated.

§ 190-13. Residential/Agricultural (RA) District.

The RA District is primarily designed to accommodate a compatible mixture of residential and agricultural

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2. Editor's Note: See Ch. A200, Zoning Board of Adjustment Procedures.

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uses at lower densities of approximately one unit or less per acre. These areas are generally without municipal sewer service and are not yet appropriate for development at higher densities. Land uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries and map.

(1) Boundaries: all areas not designated otherwise herein as: the Center Conway Village Residential District, the Conway Village Residential District, the North Conway Village Residential District, the Center Conway Village Commercial District, the Conway Village Commercial District, the North Conway Village Commercial District, the Highway Commercial District, the Regional Commercial, the Industrial-1 District, the Industrial-2 District or the Recreational Resort District. **[Amended 4-11-2017 ATM by Art. 2]**

(2) Map. The RA District Map is included as an attachment to this chapter.

B. Lot size and density.

(1) Lots serviced by a municipal water system and municipal sewerage system shall have at least 1/2 acre for the first unit that may be located thereon and at least 10,000 square feet for each additional unit on the same lot.

(2) Lots serviced by a municipal water system shall have at least 1/2 acre for each unit that may be located thereon.

(3) All other lots shall have at least one acre for each unit that may be located thereon.

(4) Special exceptions.

(a) In order to preserve and safeguard Conway's older homes, but also allow for their conversion to multifamily dwellings, the Zoning Board of Adjustment may grant special exceptions for residential structures and accessory structures on the same lot, provided that: **[Amended 4-10-2018ATM by Art. 2; 4-13-2021ATM by Art. 4]**

[1] Substantially all of the structure was constructed prior to 1930.

[2] The total number of dwelling units on the site does not exceed four.

[3] No less than 5,000 square feet of land area must be provided on the parcel for each unit that exists or is to be constructed thereon.

[4] No significant changes to the exterior lines or architectural detail are made which would diminish the historical or architectural heritage of the structure.

[5] Adequate area is available for parking outside the setback and buffer areas.

[6] Accessory structures must have at least 300 square feet of occupiable space per unit suitable for conversion to a dwelling unit.

[7] All of the dwelling units shall be used for long-term residency; short-term transient occupancies of less than 30 consecutive days of any dwelling unit is prohibited.

[8] Scaled floor plans and a scaled site drawing must be submitted to the Zoning Board at time of application to ensure compliance with the requirements for this special exception.

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(b) In order to help provide year-round housing, one accessory dwelling unit shall be permitted without a special exception and by right by the Building Inspector as an accessory to a single-family dwelling on any size lot, subject to the enumerated conditions below. **[Amended 4-9-2019 ATM by Art. 2; 4-13-2021 ATM by Art. 5; 4-9-2024ATM by Art. 21]**

The Zoning Board of Adjustment may grant a special exception for a second accessory dwelling unit as an accessory use to a single-family dwelling, or one accessory dwelling unit as an accessory use to a duplex, on any size lot, subject to the following conditions:

[1] The accessory dwelling unit is designed to ensure architectural compatibility with the neighborhood.

[2] Sufficient parking is located on site with a minimum of one space per accessory dwelling unit.

[3] The accessory dwelling unit is subject to all other applicable zoning regulations including setbacks, elevations, and overlay district restrictions.

[4] The primary single-family dwelling, duplex, and accessory dwelling units, as applicable shall be used for long-term residency, and short-term transient occupancy of any dwelling unit is prohibited. The applicable occupancy restrictions shall be recorded at the Carroll County Registry of Deeds.

[5] A second accessory dwelling unit associated with a single-family dwelling and the sole accessory dwelling unit associated with a duplex shall be reserved as an affordable unit for an eligible renter as defined in § 195-8 of the Town of Conway Zoning Ordinance. The applicable affordability restrictions shall be recorded at the Carroll County Registry of Deeds.

[6] Adequate water supply and sewage disposal for an accessory dwelling unit shall be provided in accordance with RSA 485-A:38.

[7] Site plan approval shall not be required or be a condition to the Zoning Board of Adjustment granting a special exception under this subsection.

C. Frontage. All lots must front on a state or Town highway with a Class I, II, III, IV or V classification, a private road constructed to Town standards as required by the Planning Board or a Class VI road proposed to be improved as stipulated by the Planning Board. To qualify as frontage, the lot must have access rights to the subject highway or road. The minimum distance for frontage on a road shall be:

(1) One hundred fifty feet.

(2) One hundred feet for lots which front entirely on cul-de-sacs which meet the design requirements set forth in Chapter 130, Subdivision of Land, and are approved by the Planning Board.

D. Setbacks. The minimum front setback shall be 25 feet from a platted right-of-way or 100 feet from the platted right-of-way of North-South Road between the extension of the center line of Barnes Road and the center line of Depot Road, and the minimum side or back setback shall be 15 feet.

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E. Structure and building height. Structure height is restricted to achieve several purposes. The Town is economically dependent upon tourism and attracts visitors with its rural character and mountainous setting. Maintaining the traditional scale and style of structures aids in preserving the character of the Town. Peaked roofs are encouraged because it is the traditional roof style in the Town. (Care has been taken to prepare language which does not unduly encourage the use of flat-roof buildings.) The height restriction keeps structures and buildings below treetop level, which is typically from 60 feet to 100 feet for mature maple, beech, birch and pine trees. Structure height below treetop level helps maintain the rural atmosphere and preserve the viewsheds throughout the Town. In addition, the height limit minimizes difficulty in providing fire protection. The following shall apply throughout the Town:

(1) Structure height shall not exceed 55 feet for any structure.

(2) Building height shall not exceed 45 feet.

(3) Wireless communication facilities may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that the height is necessary to fulfill its function.

(4) Church steeples may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:

(a) The space enclosed in the steeple is not usable floor space other than for the maintenance and structural purposes of the steeple.

(b) The height of the steeple is appropriate to the design and size of the church.

F. Signs. **[Amended 4-14-2015 ATM by Arts. 2, 3 and 4; 4-12-2016 ATM by Arts. 2 and 4; 4-11-2017 ATM by Art. 2; 4-10-2018 ATM by Art. 3]**

(1) Sign setbacks. Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 15 feet from all other property boundaries.

(2) Each lot in the district shall be entitled to 12 square feet of commercial or nonresidential sign message area.

(3) Maximum sign height shall be eight feet.

(4) In addition to the above signage provisions, every lot shall be entitled to one sign not exceeding one square foot in surface area placed in any of the following locations:

(a) On the front of any building or residence;

(b) On each side of an authorized USPS mailbox; or

(c) On a post which measures no more than 48 inches in height and four inches in width.

(5) Sign content. The Town has no intention of restricting individual free speech, but the Town does recognize its right to place reasonable restrictions upon commercial speech. Further, the Town wishes to prevent excessive or unnecessary signage along road corridors. In keeping with this reasoning, off-site commercial signs shall be prohibited.

(6) Signs in platted ROW. Except as otherwise permitted below, no signs shall be permitted within

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any platted right-of-way:

(a) Special promotional banners that cross a public or private road, with a message area of 200 square feet or less, as approved by the Board of Selectmen for special events.

(b) Signs sanctioned by a municipal, state or federal signage program.

(7) Temporary event signage. In addition to signage otherwise permitted herein, temporary events may display up to 20 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

(a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;

(b) Maximum sign height shall be eight feet; and

(c) Maximum sign width shall be 10 feet.

(8) Special event signage. In addition to signage otherwise permitted herein, special events may display up to 40 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

(a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;

(b) Maximum sign height shall be eight feet; and

(c) Maximum sign width shall be 10 feet.

(9) Permit required for all nonresidential signs exceeding six square feet in message area.

(a) Sign application process. Any action requiring a sign permit shall be permitted only upon the application to, and approval of, the Zoning Officer. Applications shall use the following process:

[1] An application form for each sign shall be completed and signed by the owner of the property.

[2] A complete application shall also include the following:

[a] Fee as set from time to time by the Board of Selectmen;

[b] Written description of the proposed type, size, height, setback, sign and supporting structure materials, and illumination of the sign;

[c] Statement specifically addressing compliance with off-site commercial sign restrictions; and

[d] Analysis regarding impact of safety, specifically addressing lighting/glare and line-of-sight blockage for vehicles and pedestrians.

[3] Upon receipt of a complete application, the Zoning Officer shall have up to 14 days to either approve or deny the application.

[4] If the application is denied, the Zoning Officer shall issue a written decision stating the reason(s) for denial.

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[5] If the application is approved, the Zoning Officer shall issue an approval for the erection of a sign. The sign permit is valid for one year from date of approval. If the sign is not erected within one year, the permit shall expire.

(10) Design standards. The following design standards shall be required to ensure compliance with the intent of these regulations:

(a) Illumination. Signs shall not be illuminated from within; signs may be illuminated only by external light. Lighting shall be affixed to and, for dimensional purposes, considered part of the sign structure. Lighting shall be located, directed and/or shielded such that it only sheds light downward and is limited to the message display area. The lighting sources shall be of white light and be energy-efficient fixtures when possible. Fixtures shall be located, directed and/or shielded such that no direct light emissions are visible at any point along the property boundary, nor shall they be distracting to vehicular traffic.

(b) Neon. Neon lighting shall be prohibited.

(c) Motion. Moving signs, or signs which give the appearance of motion, shall be prohibited.

(d) Flashing/blinking. Flashing, blinking, alternating-type or digital-type lighting, such as a digital message board, shall be prohibited.

(e) Structural supports and base. The support and base structure of a sign shall not exceed 50% of the maximum permitted message area of the sign. Such supports and base shall be measured on the single side or face having the greatest surface area. If the sign structural supports and base are made of wood, brick and/or stone, with only incidental use of other materials, the structure/base size limit shall be increased to 100% of the maximum permitted message area of the sign. The top of the supporting structure of a freestanding sign shall extend no farther above the top of the message area than 1/3 of the maximum permitted height of the message area.

(f) No sign shall project over a street or sidewalk, except for projecting signs as permitted herein.

(g) No sign shall be placed in such a position as to endanger vehicular or pedestrian traffic by obstructing a clear view, by causing confusion with government signs and signals, or by any other means.

(11) Movable signs. Movable signs shall be prohibited. No vehicle, including parts thereof, trailers, and other accessories shall be used as a means of circumventing the purpose and intent of this chapter. A vehicle displaying a commercial message which is licensed, registered and inspected shall be exempt from these sign regulations if it is regularly and customarily used to transport persons or property for the business.

(12) Flags, banners, pennants, etc.

(a) In addition to the signs otherwise permitted by this chapter, there may be displayed, on any lot, up to three flags displaying any otherwise legal symbol, message or information, commercial or noncommercial; except that off-site commercial flags shall be restricted as set forth in this chapter. No such flag shall exceed 24 square feet measured by one face of the flag only. Any such flag shall be mounted directly to one flagpole. A "flagpole" is a pole intended and placed solely for the support and display of a flag or flags, and does not include utility poles, light poles, trees or other sign structures. All flagpoles shall be

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erected vertically or within 45° of the vertical. No portion of any flagpole shall be sited within 10 feet of a property line. No flagpole shall extend more than 35 feet in height above grade or, if mounted on a building, 55 feet above the average finished grade of the building.

(b) Banners, feather flags, pennants, searchlights, twirling signs, balloons or other gas-filled figures, and other such materials shall be prohibited, except as specified herein.

(c) This subsection shall not be construed to prevent any sign otherwise permitted by this chapter, and which conforms to all sign requirements of this chapter, from taking the form of a flag or other fabric. Banners may be used to cover part or all of an existing freestanding, projecting or wall sign to advertise temporary events. The net effect of this activity shall not increase the message area of any permitted sign or signs.

(13) Maintenance. All surfaces and supporting structures of signs, whether erected prior to the effective date of this chapter or not, shall be maintained in a safe and sightly condition to the satisfaction of the Board of Selectmen or its authorized agent. A permit is required for any maintenance except the following: repainting; other surface renewal; or change of message on the same surface.

G. Restrictions regarding home occupations. A home occupation is considered accessory to a residential use and shall not occupy an area greater than 50% of the total floor area of the residential unit or 1,500 square feet, whichever is less. Home occupations are subject to the following provisions and restrictions:

(1) The home occupation shall be carried on by persons who live in the principal residential unit full time. Two employees living off-premises are permitted.

(2) The home occupation shall be carried on within the principal residential unit or an approved accessory structure.

(3) Exterior storage of commercial vehicles, equipment or materials or variation from the residential character of the principal residential unit shall not be permitted.

(4) The home occupation shall create no unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or other nuisance or threat to the health of the abutters.

(5) Adequate off-street parking shall be provided.

(6) A home occupation shall not generate excessive traffic or traffic in greater volumes than would normally be expected in a residential neighborhood.

(7) A change-of-use permit to operate a home occupation is required before startup of operation.

(8) Retail or wholesale sales are only permitted for those items raised or made on the premises.

(9) A home occupation shall not be offensive to the character of the neighborhood or decrease abutting property values.

H. Farm and nursery stands. Farm and nursery stands for selling indigenous produce or plants are considered temporary structures and are permitted, provided that:

(1) Farm stands shall not exceed 1,200 square feet of gross floor area unless granted site plan review approval by the Planning Board.[3]

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(2) Three off-street parking spaces shall be required to be provided for structures up to 100 square feet in size. Additional parking shall be required at the rate of one space per 200 square feet over 100 square feet.

(3) Wall signs shall not exceed 10 square feet in size. One portable A-frame sign per lot, not to exceed six square feet, shall be allowed to be displayed during business hours only.

(4) All structures, parking areas and signs shall meet the setback requirements established herein.

I. Yard sales. Yard sales shall be permitted, provided that no one household holds sales on more than six days per calendar year. **[Amended 4-11-2017 ATM by Art. 2]**

J. Mobile homes, travel trailers and recreational vehicles.

(1) One mobile home used as a residential unit is permitted on a lot in the Residential/Agricultural District.

(2) A mobile home, travel trailer or recreational vehicle may be permitted on the site of a construction project for one year, provided that it is a necessary convenience for the construction project and that no public safety or health hazards shall be created.

(3) One travel trailer or recreational vehicle may be stored on a lot, provided that it is accessory to a permitted residential use on the subject property and not utilized for dwelling purposes. Travel trailers and recreational vehicles shall not be stored on vacant lots. **[Amended 4-12-2016 ATM by Art. 3]**

(4) All mobile homes permitted under this subsection must be connected to a sewerage system and water source, both meeting minimum local and State of New Hampshire standards, as applicable and then promulgated; such systems shall be approved by the Selectmen or their designated agent and be maintained so as not to cause a health or sanitation hazard.

K. Special exceptions. The following land uses shall be allowed if granted a special exception by the Zoning Board of Adjustment:

(1) Nursing homes. In order to protect existing property owners in the Residential/Agricultural District against a new use nearby which may be incompatible or undesirable but also allow for nursing homes with acceptable accessory commercial uses such as gift shops, flower shops and candy shops, which are restricted to on-premises facilities, the Zoning Board of Adjustment may grant a special exception for nursing homes in the Residential/Agricultural District, provided that: **[Amended 4-11-2017 ATM by Art. 2]**

(a) The nursing home development is architecturally compatible with the surrounding neighborhood;

(b) Traffic access to and from the development will not alter the character of the neighborhood;

(c) Lighting will be of such design as not to disturb the tranquility of the neighborhood;

(d) Outpatient and day-care facilities operate during reasonable hours;

(e) The facility will not operate as a crisis center for drug addiction, alcoholism or the

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3. Editor's Note: See Ch. 110, Site Plan Review.

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mentally disturbed;

(f) Accessory commercial space on premises for the sole purpose of the nursing home occupants and employees will be operated and managed by the nursing home owners, and the same space will not be leased to outside businesses;

(g) The nursing home structure shall not exceed two stories in height above grade;

(h) The maximum density allowed is 16 beds per acre; and

(i) The land to be developed for such use contains no less than five acres.

(2) Charitable fund-raising events. A special exception may be granted for charitable fund-raising events operated by or on behalf of nonprofit organizations having a federal tax exemption, provided that:

(a) The event is not offensive to the character of the neighborhood;

(b) The event is for a brief, predetermined length or duration not to exceed three consecutive days; and

(c) The event complies with the guidelines and procedures for review of license applications for special events in the Town of Conway, as prescribed by the Conway Board of Selectmen.[4]

(3) Private educational facilities. A special exception may be granted to permit private educational facilities, with or without accessory uses, provided that:

(a) Traffic access to and from the facility will not alter the character of the abutting residential neighborhood;

(b) The development is architecturally compatible with the height, scale, color and detail of the surrounding residential neighborhood; and

(c) The proposed facility will not adversely affect abutting properties by reason of undue light, noise, density of use, or other nuisance.

(4) Day-care centers. A special exception may be granted to home-based day-care centers serving seven people to 15 people and other non-home-based centers, regardless of the number of people served, provided that:

(a) Traffic access to and from the development will not alter the character of the abutting residential neighborhood;

(b) The development is architecturally compatible with the height, scale, color and detail of the surrounding residential neighborhood;

(c) Site plan approval or a site plan exemption is granted by the Planning Board; and

(d) The size of the lot is appropriate to provide green space and play areas.

(5) Commercial golf facilities. A special exception may be granted for traditionally full-sized golf courses and those accessory uses traditionally associated with this primary use, such as a

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

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clubhouse with a lounge and restaurant facility, professional shop, golf practice range, tennis courts and swimming pools, but not to include miniature golf, provided that the specific site is an appropriate location for such use, not only in context with the land to be dedicated to such use but in context with the surrounding land uses as well. The applicant shall dedicate a specific parcel(s) to the proposed facility, which shall not be used for residential density. In order to determine this, the following criteria shall be evaluated:

(a) Property values. The applicant shall present information by a certified appraiser indicating that there will be no negative impact on abutting properties as a result of the proposed special exception;

(b) Traffic. No traffic hazard will be created and traffic access will not alter the character of the neighborhood. The main access point shall be from an arterial road or collector road and not from neighborhood streets. The Zoning Board of Adjustment may consider the comments of the Town Planning Director in evaluating the traffic study. A traffic study shall be completed that shows the impact of the proposed development in its entirety on the nearest signalized intersection(s). For intersections that are of an overall level of service (herein "LOS") C or better, the LOS at the nearest signalized intersection(s) shall not fall below LOS C during the a.m. and p.m. peak hours as a result of the development. If LOS C cannot be maintained, the applicant shall make such changes as are necessary to bring the intersection to LOS C, provided that such improvements are acceptable to the Zoning Board of Adjustment. The applicant may choose to reduce the development so as to produce an acceptable LOS. If the LOS is already below C (D, E or F), the project shall only be approved if the LOS is brought up to D. The applicant may choose to reduce the development so as to produce an acceptable LOS; **[Amended 4-11-2017 ATM by Art. 2]**

(c) Nuisance/Hazards. The Zoning Board of Adjustment shall review the operation of the development, including noise, odors and any hazards associated with the use and location. If the Zoning Board of Adjustment determines that any hazards or nuisances cannot be overcome and are not customarily found in a residential neighborhood, the proposed use shall be denied;

(d) Adequacy of private/municipal facilities. The Zoning Board of Adjustment shall review the proposed facilities, including drainage, sewer/septic, water, electric and other utilities, to ensure adequate provisions to meet the needs of the proposed development. It may consider the opinion of the Town Engineer in making this determination;

(e) Design and architecture. The design and architecture of the proposed structure shall be reviewed by the Zoning Board of Adjustment to determine its compatibility with abutting residential structures. The scale, height, color and detail shall be similar to and/or aesthetically compatible with residential structures;

(f) Lighting. The lighting plan shall be submitted to the Zoning Board of Adjustment for approval. No direct glare shall be permitted. Parking areas and walkways may be illuminated by luminaires so hooded or shielded as to not extend significantly beyond the parking and walkway areas;

(g) Hours of operation. Hours of operation will be appropriate so as to not interfere with the abutting residential neighborhood by means of excess traffic in off-peak hours, unscreened lighting that disturbs residential uses and other factors that make the facility different from a residential neighborhood; and

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(h) Buffer. A perimeter buffer area adjacent to all abutting properties shall be left undisturbed if wooded and, if open, shall be planted with dense evergreen plantings. It shall be 100 feet in depth at a minimum unless a greater buffer is required by the Zoning Board of Adjustment due to the intensity of the use and interference with adjacent properties. **[Amended 4-11-2017 ATM by Art. 2]**

(i) Site plan. Site plan approval by the Planning Board is also required.[5]

(6) Resort hotel. A special exception may be granted for a resort hotel and those uses traditionally associated with this use, provided that:

(a) The resort hotel is constructed on and in conjunction with a commercial golf facility or with another recreational/resort use on the supporting acreage;

(b) The minimum lot size for the lot supporting the combined commercial golf course and resort hotel shall be 200 acres, exclusive of that acreage that falls within the Wetlands Conservation District;

(c) To the extent not previously satisfied in an approval for a commercial golf facility, the resort hotel and its site will comply with all of the conditions required for a commercial golf facility;

(d) In addition to the buffer area required for commercial golf courses, the resort hotel building(s) shall be set back no closer than 1,000 feet to the boundary line of any other unaffiliated lot or roadway (An "unaffiliated lot or roadway" is a lot or roadway not owned or controlled by the applicant or its principals.); and

(e) The number of guest rooms in the resort hotel will be dependent upon the acreage allocated to the combined facility/resort hotel lot, at a ratio of two acres per guest room.

(7) Post offices. A special exception may be granted to permit a publicly or privately owned post office, provided that:

(a) Traffic access to and from the site will not alter the character of the abutting residential neighborhood;

(b) The post office is architecturally compatible with the surrounding residential district;

(c) The proposed facility will not adversely affect abutting properties by reason of undue light, noise, density of use or decreased property values;

(d) No portion of the building may be used for any purpose other than a post office;

(e) At such time as the facility ceases to be used as a post office, the building and improvements shall either be razed or converted to a use allowed in the district; and

(f) The minimum dimensional lot requirements (lot size, setbacks, frontage, etc.) may be increased by either the Zoning Board of Adjustment or the Planning Board if it is found that the aforementioned criteria cannot be met using minimum dimensional requirements.

(8) Heliports. A special exception may be granted to permit private/noncommercial heliports as an accessory to any approved use. The requirement for a special exception to be granted under this

5. **Editor's Note: See Ch. 110, Site Plan Review.**

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subsection shall not be applied to the use of helicopters, or any other type of aircraft, being used on a temporary basis for such purposes as emergency response, medical necessity, ongoing construction projects that have been permitted by the Town of Conway, or temporary (fewer than seven days) news media coverage. Before a special exception for a heliport can be granted by the Zoning Board of Adjustment, the following conditions must be met:

(a) The use of the site for a heliport shall not be offensive to the character of the neighborhood;

(b) The use of the site for a heliport shall not decrease abutting property values. Evidence supporting property values must be submitted by any party with an interest in the granting of the special exception from a creditable source that is knowledgeable of land evaluation and property values;

(c) Any site being considered to contain a heliport must be, at a minimum, five acres in size;

(d) Other site dimensions, above and beyond the overall acreage requirement listed above, shall be sufficient to provide safety areas suitable to meet all FAA-suggested dimensions and requirements;

(e) Before the Zoning Board of Adjustment considers any application for a special exception for this land use, all federal and state approvals which are required must be obtained by the applicant, with copies of these approvals submitted as part of the request for special exception; and

(f) A major site plan approval shall be required of the applicant from the Planning Board for the heliport, which is accessory to an approved business. As a condition for the granting of the special exception, no use of the heliport may be engaged by the applicant until all conditions of the special exception, including a major site plan approval, have been satisfied by the applicant.[6]

(9) A special exception may be granted for helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term nature. No approval for a special exception shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to Town residents and their property.

(10) Business development parks. A special exception may be granted for a business development park that provides educational and technical assistance as well as incubation space and infrastructure for new and existing business development, including roads, buildings, and other necessary infrastructure within the Residential/Agricultural District, provided the following conditions are satisfied:

(a) The subject property must have some of its boundary within or contiguous with the boundary of a Highway or Village Commercial District. **[Amended 4-11-2017 ATM by Art. 2]**

(b) Arterial road. The business development park must front on and access an existing arterial road.

(c) Setbacks. The minimum front, side and rear setbacks from all adjacent properties and

6. **Editor's Note: See Ch. 110, Site Plan Review.**

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roads shall be 100 feet.

(d) Parking lots. Parking lots shall not exceed 20,000 square feet in gross area.

(e) Nuisances; hazards. The applicant must demonstrate that the operations of the business development park, including noise, odors and any other expected hazards associated with the development, are consistent with that of a residential neighborhood.

(f) Property values. The applicant shall provide a comprehensive report, by an appraiser licensed by the State of New Hampshire, which demonstrates that there will be no negative impact on abutting properties. This report shall be reviewed and comments will be provided by the Town Assessor.

(g) Traffic study. The applicant must provide a traffic study, certified by a qualified engineer licensed by the State of New Hampshire, which clearly indicates the traffic impacts that would result from the project and improvements to the existing transportation infrastructure that would be necessary to ensure appropriate access and level of service. This report shall be reviewed and comments will be provided by the Town Engineer.

(h) Buffer. A perimeter buffer area adjacent to all abutting properties and streets shall be left in its undisturbed natural state or, if disturbed, shall be replanted with indigenous species. The minimum buffer depth shall be 100 feet.

(i) Recreation use. The business development park will construct a passive and active recreation trail system within the project for use by tenants of the business development park and the public. The trail system shall provide links to other existing or future publicly accessible trails adjacent to the property. The rate of trail system construction shall be, at least, consistent with the rate of development of the business development park. The recreation trails may cross the buffer only to connect with existing or future publicly accessible trails on adjacent properties and if they do not impair the effectiveness of the buffer.

(j) Green space. Green space shall comprise not less than 35% of the total lot area, exclusive of wetlands, water bodies, the one-hundred-year floodplain and slopes over 25%.

(11) Kennels. A special exception may be granted to permit kennels for transient (fewer than 30 days) housing of domestic animals or commercial breeding facilities for domestic animals, provided that:

(a) The minimum lot size is two acres.

(b) Animal housing areas, if indoors, shall be set back 40 feet from side and rear property lines and 60 feet from rights-of-way. Pastures/Outdoor exercise areas shall be set back 15 feet from any property line.

(c) A written plan for the disposal/removal of animal waste must be submitted along with the application requesting the special exception from the Zoning Board of Adjustment. This plan must be approved by the Board as a condition of the special exception approval, if granted.

(d) All animals shall be kept in an indoor area between the hours of 6:00 p.m. and 8:00 a.m.

(e) The values of surrounding properties are not diminished. **[Added 4-11-2023ATM by Art.**

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(f) There will be no nuisance to abutters and/or neighbors preventing the peaceful enjoyment of their property and home. **[Added 4-11-2023ATM by Art. 11]**

(g) Additional conditions may be attached to this special exception by the Board of Adjustment consistent with the intent and purpose of this chapter to protect the health, safety, and general welfare of the Town's residents. **[Added 4-11-2023ATM by Art. 11]**

(h) At no time shall noise from a kennel operation exceed 70 decibels when measured at a property line. Sound barriers or additional setback area may be required to limit sound impacts on abutting properties. At any time, the Town may demand noise levels be verified by a qualified engineer. **[Added 4-9-2024ATM by Art. 17]**

(12) Wireless communication facilities. Wireless communication facilities may be allowed by special exception in the Residential/Agricultural District, on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:

(a) Since the visual impact of wireless communication facilities can transcend Town lines, communities that may be visually affected shall be formally notified of applications for such proposed facilities as projects having regional impact.

(b) The applicant must demonstrate that every reasonable effort has been made to cause the facility to have the least possible visual impact on the Town at large, including demonstration of realistic analysis of multiple sites, the need for the proposed height, and any impact on significant roadside viewpoints.

(c) Any wireless communication facility shall be designed to accommodate multiple providers of communication services and will only be approved under the condition that the primary developer of the facility will make the facility available upon reasonable terms, by lease or other legal instruments, to other wireless communication services.

(d) The Board of Adjustment may request detailed plans from the applicant and may, at the expense of the applicant, engage the services of professional consultants to review and comment on the proposal, and testimony of the applicants or their agents relating thereto.

(e) Major site plan approval must be obtained from the Planning Board.[7]

(13) Mobile homes. The Zoning Board of Adjustment may grant a special exception for a mobile home on a lot on which a single-family residential structure exists if the following conditions are met:

(a) The mobile home shall be occupied only as the usual residence of the immediate family, including grandparents, parents and children, of the owner and/or spouse of the primary single-family residential structure on the lot, and the lot shall be at least one acre if served by municipal water and sewerage and at least two acres in all other cases; or the mobile home shall be occupied as the usual residence of a full-time agricultural employee and his immediate family, and the single-family residence shall be part of an owner-operated farm of 25 acres or more.

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7. Editor's Note: See Ch. 110, Site Plan Review.

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(b) The special exception shall terminate on a change of ownership or occupancy of either the mobile home or the primary residential structure.

(c) A permit shall be obtained from the Selectmen or their agent, which shall be renewed yearly to ensure compliance with the above conditions.

(14) Commercial solar. A special exception may be granted for a commercial solar or large commercial solar collection system provided the following conditions are satisfied: **[Added 5-12-2020 ATM by Art. 3]**

(a) Elevation. In order to protect the Town's viewsheds and scenic upslopes no commercial solar collection system may be located on land at or above 600 feet in elevation, referenced to the North American Vertical Datum of 1929. The applicant shall demonstrate on a plan certified by a New Hampshire licensed land surveyor that no part of the solar collection system is on land above the six-hundred-foot elevation limit.

(b) Setbacks. The minimum front setback from roads shall be 100 feet; side and rear setbacks from all adjacent properties shall be 50 feet. The applicant shall show the setback lines on a plan certified by a New Hampshire licensed land surveyor.

(c) Buffer. A perimeter buffer area adjacent to all abutting properties and roads shall be left in its undisturbed natural state if it provides a year-round visual barrier from abutting properties and roads or it shall be replanted with a mix of indigenous coniferous and deciduous species to create a year-round visual barrier from abutting properties and roads. The minimum buffer depth shall be 50 feet. The applicant shall show the buffer area on a plan certified by a New Hampshire licensed land surveyor.

(d) Land clearing. Land clearing shall be limited to what is necessary for the installation and operation of the system and to insure sufficient all-season access to the solar resource given the topography of the land. Following construction, cleared land areas must be restored with native species that are consistent with the use of the site as a solar collection system (such as slow growth or low ground cover). Erosion control measures during construction shall be detailed as required.

(e) The applicant shall provide a detailed pre-construction and post-construction plan identifying existing vegetation and areas to be cleared with specific identification of locations of buffer areas adjacent to abutting properties and roads. The post construction plan must also demonstrate compliance with vegetation restoration requirements.

(f) The applicant shall provide a statement detailing potential significant glare onto abutting properties, structures and roadways estimating the interaction of sun to panel angle, time of year and visibility locations.

(g) The applicant shall provide an evaluation of the view impacts from elevated viewpoints from which the facility is likely to be seen. This shall include but is not necessarily limited to views from recognized recreational trails, roadways and scenic vistas.

(h) The applicant shall provide estimates of any equipment noise on the site based on equipment specification materials. The applicant shall also demonstrate that noise levels at the property line shall not exceed 50 dBA.

(i) Existing utility infrastructure. The applicant must demonstrate that the existing utility infrastructure has the capacity to host the proposed facility and assure the Board that no

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substantive changes to the off-site infrastructure (including but not necessarily limited to increased size or height of poles or towers, increased number of poles or towers, or new or expanded utility easements) would result from the proposed solar collection system. This provision shall not apply to required poles, infrastructure and easements that are exclusively part of the utility interconnection approval for the system. Additionally, upgraded infrastructure that is required as part of increasing reliability and service to abutting properties as part of utility approvals is exempt provided any additional poles are limited to Class 1-50. Larger poles and towers shall require ZBA approval.

§ 190-14. Center Conway Village Residential (CCVR) District.

The CCVR District is primarily designed to accommodate a compatible mixture of residential and agricultural uses at lower densities of approximately one unit or less per acre. These areas are generally without municipal sewer service and are not yet appropriate for development at higher densities. Uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries and map.

(1) The CCVR District shall have the following bounds (Map and Parcel numbers refer to 2003 Town of Conway Tax Maps): commencing at the point where the southern boundary of the former Maine Central Railroad ROW (Map 219, Parcel 211) intersects Mill Brook (the outlet of Conway Lake); running southwesterly along the thread of the brook to the center line of Mill Street; then running northerly along the center line of Mill Street to the northeast corner of Map 268, Parcel 163;

Then running westerly along the northern boundary of Tax Map 268, Parcel 163 to the boundary of Map 267, Parcel 14; then running northerly and westerly along the boundary of Map 267, Parcel 14 to the southwest corner of Map 260, Parcel 34; then running northerly along the western boundary of Map 260, Parcel 34 to the southeast corner of Map 260, Parcel 40; then running northerly along the eastern boundary of Map 260, Parcel 40 to the center line of Route 302;

Then running easterly along the center line of Route 302 to the southeastern corner of Map 259, Parcel 14; then running northeasterly along the boundary of Map 259, Parcel 14 to the western boundary of Map 259, Parcel 19; then running northwesterly along the boundary of Map 259, Parcel 19 to the southern boundary of the former Maine Central Railroad ROW (Map 219, Parcel 211); then easterly along the southern boundary of the ROW (Map 219, Parcel 211) back to the point of commencement.

(2) District map. The CCVR District Map is included as an attachment to this chapter.

B. Lot size and density.

(1) Lots serviced by a municipal water system and municipal sewerage system shall have at least 1/2 acre for the first unit that may be located thereon and at least 10,000 square feet for each additional unit on the same lot.

(2) Lots serviced by a municipal water system shall have at least 1/2 acre for each unit that may be located thereon.

(3) All other lots shall have at least one acre for each unit that may be located thereon.

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(4) Special exceptions.

(a) In order to preserve and safeguard Conway's older homes, but also allow for their conversion to multifamily dwellings, the Zoning Board of Adjustment may grant special exceptions for residential structures and accessory structures on the same lot, provided that: **[Amended 4-10-2018 ATM by Art. 2; 5-12-2020ATM by Art. 4]**

[1] Substantially all of the structure was constructed prior to 1930.

[2] The total number of dwelling units on the site does not exceed four.

[3] No less than 5,000 square feet of land area must be provided on the parcel for each unit that exists or is to be constructed thereon.

[4] No significant changes to the exterior lines or architectural detail are made which would diminish the historical or architectural heritage of the structure.

[5] Adequate area is available for parking outside the setback and buffer areas.

[6] Accessory structures must have at least 300 square feet of occupiable space per unit suitable for conversion to a dwelling unit.

[7] All of the dwelling units shall be used for long-term residency; short-term transient occupancies of less than 30 consecutive days of any dwelling unit is prohibited.

[8] Scaled floor plans and a scaled site drawing must be submitted to the Zoning Board of Adjustment at the time of application to ensure compliance with the requirements for this special exception.

(b) In order to help provide year-round housing, one accessory dwelling unit shall be permitted without a special exception and by right by the Building Inspector as an accessory to a single-family dwelling on any size lot, subject to the enumerated conditions below. **[Amended 4-9-2019 ATM by Art. 2; 4-13-2021 ATM by Art. 5; 4-9-2024ATM by Art. 21]**

The Zoning Board of Adjustment may grant a special exception for a second accessory dwelling unit as an accessory use to a single-family dwelling, or one accessory dwelling unit as an accessory use to a duplex, on any size lot, subject to the following conditions:

[1] The accessory dwelling unit is designed to ensure architectural compatibility with the neighborhood.

[2] Sufficient parking is located on site with a minimum of one space per accessory dwelling unit.

[3] The accessory dwelling unit is subject to all other applicable zoning regulations including setbacks, elevations, and overlay district restrictions.

[4] The primary single-family dwelling, duplex, and accessory dwelling units, as applicable shall be used for long-term residency, and short-term transient occupancy of any dwelling unit is prohibited. The applicable occupancy restrictions shall be recorded at the Carroll County Registry of Deeds.

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[5] A second accessory dwelling unit associated with a single-family dwelling and the sole accessory dwelling unit associated with a duplex shall be reserved as an affordable unit for an eligible renter as defined in § 195-8 of the Town of Conway Zoning Ordinance. The applicable affordability restrictions shall be recorded at the Carroll County Registry of Deeds.

[6] Adequate water supply and sewage disposal for an accessory dwelling unit shall be provided in accordance with RSA 485-A:38.

[7] Site plan approval shall not be required or be a condition to the Zoning Board of Adjustment granting a special exception under this subsection.

C. Frontage. All lots must front on a state or Town highway with a Class I, II, III, IV or V classification, a private road constructed to Town standards as required by the Planning Board or a Class VI road proposed to be improved as stipulated by the Planning Board. To qualify as frontage, the lot must have access rights to the subject highway or road. The minimum distance for frontage on a road shall be:

(1) One hundred fifty feet.

(2) One hundred feet for lots which front entirely on cul-de-sacs which meet the design requirements set forth in Chapter 130, Subdivision of Land, Article X, Detail #4, and approved by the Planning Board.

D. Setbacks. The minimum front setback shall be 25 feet, and the minimum side or back setback shall be 15 feet.

E. Structure and building height. Structure height is restricted to achieve several purposes. The Town is economically dependent upon tourism and attracts visitors with its rural character and mountainous setting. Maintaining the traditional scale and style of structures aids in preserving the character of the Town. Peaked roofs are encouraged because it is the traditional roof style in the Town. (Care has been taken to prepare language which does not unduly encourage the use of flat-roof buildings.) The height restriction keeps structures and buildings below treetop level, which is typically from 60 feet to 100 feet for mature maple, beech, birch and pine trees. Structure height below treetop level helps maintain the rural atmosphere and preserve the viewsheds throughout the Town. In addition, the height limit minimizes difficulty in providing fire protection. The following shall apply throughout the Town:

(1) Structure height shall not exceed 55 feet for any structure, except wind energy systems permitted in accordance with Chapter 179 of the Conway Code. **[Amended 4-11-2017 ATM by Art. 2]**

(2) Building height shall not exceed 45 feet.

(3) Wireless communication facilities may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that the height is necessary to fulfill their function.

(4) Church steeples may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:

(a) The space enclosed in the steeple is not usable floor space other than for the maintenance

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and structural purposes of the steeple.

(b) The height of the steeple is appropriate to the design and size of the church.

F. Signs. **[Amended 4-14-2015 ATM by Arts. 2, 3 and 4; 4-12-2016 ATM by Arts. 2 and 4; 4-11-2017 ATM by Art. 2; 4-10-2018 ATM by Art. 3]**

(1) Sign setbacks. Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 15 feet from all other property boundaries.

(2) Each lot in the district shall be entitled to 12 square feet of commercial or nonresidential sign message area.

(3) Maximum sign height shall be eight feet.

(4) In addition to the above signage provisions, every lot shall be entitled to one sign not exceeding one square foot in surface area placed in any of the following locations:

(a) On the front of any building or residence;

(b) On each side of an authorized USPS mailbox; or

(c) On a post which measures no more than 48 inches in height and four inches in width.

(5) Sign content. The Town has no intention of restricting individual free speech, but the Town does recognize its right to place reasonable restrictions upon commercial speech. Further, the Town wishes to prevent excessive or unnecessary signage along road corridors. In keeping with this reasoning, off-site commercial signs shall be prohibited.

(6) Signs in platted ROW. Except as otherwise permitted below, no signs shall be permitted within any platted right-of-way:

(a) Special promotional banners that cross a public or private road, with a message area of 200 square feet or less, as approved by the Board of Selectmen for special events.

(b) Signs sanctioned by a municipal, state or federal signage program.

(7) Temporary event signage. In addition to signage otherwise permitted herein, temporary events may display up to 20 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

(a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;

(b) Maximum sign height shall be eight feet; and

(c) Maximum sign width shall be 10 feet.

(8) Special event signage. In addition to signage otherwise permitted herein, special events may display up to 40 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

(a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;

(b) Maximum sign height shall be eight feet; and

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(c) Maximum sign width shall be 10 feet.

(9) Permit required for all nonresidential signs exceeding six square feet in message area.

(a) Sign application process. Any action requiring a sign permit shall be permitted only upon the application to, and approval of, the Zoning Officer. Applications shall use the following process:

[1] An application form for each sign shall be completed and signed by the owner of the property.

[2] A complete application shall also include the following:

[a] Fee as set from time to time by the Board of Selectmen;

[b] Written description of the proposed type, size, height, setback, sign and supporting structure materials, and illumination of the sign;

[c] Statement specifically addressing compliance with off-site commercial sign restrictions; and

[d] Analysis regarding impact of safety, specifically addressing lighting/glare and line-of-sight blockage for vehicles and pedestrians.

[3] Upon receipt of a complete application, the Zoning Officer shall have up to 14 days to either approve or deny the application.

[4] If the application is denied, the Zoning Officer shall issue a written decision stating the reason(s) for denial.

[5] If the application is approved, the Zoning Officer shall issue an approval for the erection of a sign. The sign permit is valid for one year from date of approval. If the sign is not erected within one year, the permit shall expire.

(10) Design standards. The following design standards shall be required to ensure compliance with the intent of these regulations:

(a) Illumination. Signs shall not be illuminated from within; signs may be illuminated only by external light. Lighting shall be affixed to and, for dimensional purposes, considered part of the sign structure. Lighting shall be located, directed and/or shielded such that it only sheds light downward and is limited to the message display area. The lighting sources shall be of white light and be energy-efficient fixtures when possible. Fixtures shall be located, directed and/or shielded such that no direct light emissions are visible at any point along the property boundary, nor shall they be distracting to vehicular traffic.

(b) Neon. Neon lighting shall be prohibited.

(c) Motion. Moving signs, or signs which give the appearance of motion, shall be prohibited.

(d) Flashing/blinking. Flashing, blinking, alternating-type or digital-type lighting, such as a digital message board, shall be prohibited.

(e) Structural supports and base. The support and base structure of a sign shall not exceed 50% of the maximum permitted message area of the sign. Such supports and base shall be measured on the single side or face having the greatest surface area. If the sign structural

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supports and base are made of wood, brick and/or stone, with only incidental use of other materials, the structure/base size limit shall be increased to 100% of the maximum permitted message area of the sign. The top of the supporting structure of a freestanding sign shall extend no farther above the top of the message area than 1/3 of the maximum permitted height of the message area.

(f) No sign shall project over a street or sidewalk, except for projecting signs as permitted herein.

(g) No sign shall be placed in such a position as to endanger vehicular or pedestrian traffic by obstructing a clear view, by causing confusion with government signs and signals, or by any other means.

(11) Movable signs. Movable signs shall be prohibited. No vehicle, including parts thereof, trailers, and other accessories, shall be used as a means of circumventing the purpose and intent of this chapter. A vehicle displaying a commercial message which is licensed, registered and inspected shall be exempt from these sign regulations if it is regularly and customarily used to transport persons or property for the business.

(12) Flags, banners, pennants, etc.

(a) In addition to the signs otherwise permitted by this chapter, there may be displayed, on any lot, up to three flags displaying any otherwise legal symbol, message or information, commercial or noncommercial; except that off-site commercial flags shall be restricted as set forth in this chapter. No such flag shall exceed 24 square feet measured by one face of the flag only. Any such flag shall be mounted directly to one flagpole. A "flagpole" is a pole intended and placed solely for the support and display of a flag or flags, and does not include utility poles, light poles, trees or other sign structures. All flagpoles shall be erected vertically or within 45° of the vertical. No portion of any flagpole shall be sited within 10 feet of a property line. No flagpole shall extend more than 35 feet in height above grade or, if mounted on a building, 55 feet above the average finished grade of the building.

(b) Banners, feather flags, pennants, searchlights, twirling signs, balloons or other gas-filled figures, and other such materials shall be prohibited, except as specified herein.

(c) This subsection shall not be construed to prevent any sign otherwise permitted by this chapter, and which conforms to all sign requirements of this chapter, from taking the form of a flag or other fabric. Banners may be used to cover part or all of an existing freestanding, projecting or wall sign to advertise temporary events. The net effect of this activity shall not increase the message area of any permitted sign or signs.

(13) Maintenance. All surfaces and supporting structures of signs, whether erected prior to the effective date of this chapter or not, shall be maintained in a safe and sightly condition to the satisfaction of the Board of Selectmen or its authorized agent. A permit is required for any maintenance except the following: repainting; other surface renewal; or change of message on the same surface.

G. Restrictions regarding home occupations. A home occupation is considered accessory to a residential use and shall not occupy an area greater than 50% of the total floor area of the residential unit or 1,500 square feet, whichever is less. Home occupations are subject to the following provisions and restrictions:

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(1) The home occupation shall be carried on by persons who live in the principal residential unit full time. Two employees living off-premises are permitted.

(2) The home occupation shall be carried on within the principal residential unit or an approved accessory structure.

(3) Exterior storage of commercial vehicles, equipment or materials or variation from the residential character of the principal residential unit shall not be permitted.

(4) The home occupation shall create no unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or other nuisance or threat to the health of the abutters.

(5) Adequate off-street parking shall be provided.

(6) A home occupation shall not generate excessive traffic or traffic in greater volumes than would normally be expected in a residential neighborhood.

(7) A home occupation may display a sign conforming to Subsection F(10)(l) above. **[Amended 4-11-2017 ATM by Art. 2]**

(8) A change-of-use permit to operate a home occupation is required before startup of operation.

(9) Retail or wholesale sales are only permitted for those items raised or made on the premises.

(10) A home occupation shall not be offensive to the character of the neighborhood or decrease abutting property values.

H. Farm and nursery stands. Farm and nursery stands for selling indigenous produce or plants are considered temporary structures and are permitted, provided that:

(1) Farm stands shall not exceed 1,200 square feet of gross floor area unless granted site plan review approval by the Planning Board.[8]

(2) Three off-street parking spaces shall be required to be provided for structures up to 100 square feet in size. Additional parking shall be required at the rate of one space per 200 square feet over 100 square feet.

(3) Wall signs shall not exceed 10 square feet in size. One portable A-frame sign per lot, not to exceed six square feet, shall be allowed to be displayed during business hours only.

(4) All structures, parking areas and signs shall meet the setback requirements established herein.

I. Yard sales. Yard sales shall be permitted, provided that no one household holds sales on more than six days per calendar year. **[Amended 4-11-2017 ATM by Art. 2]**

J. Travel trailers and recreational vehicles.

(1) A travel trailer or recreational vehicle may be permitted on the site of a construction project for one year, provided that it is a necessary convenience for the construction project and that no public safety or health hazards shall be created.

(2) One travel trailer or recreational vehicle may be stored on a lot, provided that it is accessory to a permitted residential use on the subject property and not utilized for dwelling purposes. Travel

8. Editor's Note: See Ch. 110, Site Plan Review.

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trailers and recreational vehicles shall not be stored on vacant lots. **[Amended 4-12-2016 ATM by Art. 3]**

K. Special exceptions. The following land uses shall be allowed if granted a special exception by the Zoning Board of Adjustment:

(1) Nursing homes. In order to protect existing property owners in the Center Conway Village Residential District against a new use nearby which may be incompatible or undesirable but also allow for nursing homes with acceptable accessory commercial uses such as gift shops, flower shops and candy shops, which are restricted to on-premises facilities, the Zoning Board of Adjustment may grant a special exception for nursing homes in the Center Conway Village Residential District, provided that: **[Amended 4-11-2017 ATM by Art. 2]**

(a) The nursing home development is architecturally compatible with the surrounding neighborhood;

(b) Traffic access to and from the development will not alter the character of the neighborhood;

(c) Lighting will be of such design as not to disturb the tranquility of the neighborhood;

(d) Outpatient and day-care facilities operate during reasonable hours;

(e) The facility will not operate as a crisis center for drug addiction, alcoholism or the mentally disturbed;

(f) Accessory commercial space on premises for the sole purpose of the nursing home occupants and employees will be operated and managed by the nursing home owners, and the same space will not be leased to outside businesses;

(g) The nursing home structure shall not exceed two stories in height above grade;

(h) The maximum density allowed is 16 beds per acre; and

(i) The land to be developed for such use contains no less than five acres.

(2) Charitable fund-raising events. A special exception may be granted for charitable fund-raising events operated by or on behalf of nonprofit organizations having a federal tax exemption, provided that:

(a) The event is not offensive to the character of the neighborhood;

(b) The event is for a brief, predetermined length or duration not to exceed three consecutive days; and

(c) The event complies with the guidelines and procedures for review of license applications for special events in the Town of Conway, as prescribed by the Conway Board of Selectmen.[9]

(3) Private educational facilities. A special exception may be granted to permit private educational facilities, with or without accessory uses, provided that:

(a) Traffic access to and from the facility will not alter the character of the abutting residential

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

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neighborhood;

(b) The development is architecturally compatible with the height, scale, color and detail of the surrounding residential neighborhood; and

(c) The proposed facility will not adversely affect abutting properties by reason of undue light, noise, density of use, or other nuisance.

(4) Day-care centers. A special exception may be granted to home-based day-care centers serving seven people to 15 people and other non-home-based centers, regardless of the number of people served, provided that:

(a) Traffic access to and from the development will not alter the character of the abutting residential neighborhood;

(b) The development is architecturally compatible with the height, scale, color and detail of the surrounding residential neighborhood;

(c) Site plan approval or a site plan exemption is granted by the Planning Board;[10] and

(d) The size of the lot is appropriate to provide green space and play areas.

(5) Commercial golf facilities. A special exception may be granted for traditionally full-sized golf courses and those accessory uses traditionally associated with this primary use, such as a clubhouse with a lounge and restaurant facility, professional shop, golf practice range, tennis courts and swimming pools, but not to include miniature golf, provided that:

(a) The specific site is an appropriate location for such use, not only in context with the land to be dedicated to such use but in context with the surrounding land uses as well. The applicant shall dedicate a specific parcel(s) to the proposed facility, which shall not be used for residential density. In order to determine this, the following criteria shall be evaluated:

[1] Property values. The applicant shall present information by a certified appraiser indicating that there will be no negative impact on abutting properties as a result of the proposed special exception;

[2] Traffic. No traffic hazard will be created and traffic access will not alter the character of the neighborhood. The main access point shall be from an arterial or collector and not from neighborhood streets. The Zoning Board of Adjustment may consider the comments of the Town Planning Director in evaluating the traffic study. A traffic study shall be completed that shows the impact of the proposed development in its entirety on the nearest signalized intersection(s). For intersections that are of an overall level of service (herein "LOS") C or better, the LOS at the nearest signalized intersection(s) shall not fall below LOS C during the a.m. and p.m. peak hours as a result of the development. If LOS C cannot be maintained, the applicant shall make such changes that are necessary to bring the intersection to LOS C, provided that such improvements are acceptable to the Zoning Board of Adjustment. The applicant may choose to reduce the development so as to produce an acceptable LOS. If the LOS is already below C (D, E or F), the project shall only be approved if the LOS is brought up to D. The applicant may choose to reduce the development so as to

10. Editor's Note: See Ch. 110, Site Plan Review.

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produce an acceptable LOS; **[Amended 4-11-2017 ATM by Art. 2]**

[3] Nuisances; hazards. The Zoning Board of Adjustment shall review the operation of the development, including noise, odors and any hazards associated with the use and location. If the Zoning Board of Adjustment determines that any hazards or nuisances cannot be overcome and are not customarily found in a residential neighborhood, the proposed use shall be denied;

[4] Adequacy of private/municipal facilities. The Zoning Board of Adjustment shall review the proposed facilities, including drainage, sewer/septic, water, electric and other utilities, to ensure adequate provisions to meet the needs of the proposed development. It may consider the opinion of the Town Engineer in making this determination;

[5] Design and architecture. The design and architecture of the proposed structure shall be reviewed by the Zoning Board of Adjustment to determine its compatibility with abutting residential structures. The scale, height, color and detail shall be similar to and/or aesthetically compatible with residential structures;

[6] Lighting. The lighting plan shall be submitted to the Zoning Board of Adjustment for approval. No direct glare shall be permitted. Parking areas and walkways may be illuminated by luminaries so hooded or shielded as to not extend significantly beyond the parking and walkway areas;

[7] Hours of operation. Hours of operation will be appropriate so as to not interfere with the abutting residential neighborhood by means of excess traffic in off-peak hours, unscreened lighting that disturbs residential uses and other factors that make the facility different from a residential neighborhood; and

[8] Buffer. A perimeter buffer area adjacent to all abutting properties shall be left undisturbed if wooded and, if open, shall be planted with dense evergreen plantings. It shall be 100 feet in depth at a minimum unless a greater buffer is required by the Zoning Board of Adjustment due to the intensity of the use and interference with adjacent properties. **[Amended 4-11-2017 ATM by Art. 2]**

[9] Site plan. A site plan approval by the Planning Board is also required.[11]

(6) Resort hotel. A special exception may be granted for a resort hotel and those uses traditionally associated with this use, provided that:

(a) The resort hotel is constructed on and in conjunction with a commercial golf facility or with another recreational/resort use on the supporting acreage;

(b) The minimum lot size for the lot supporting the combined commercial golf course and resort hotel shall be 200 acres, exclusive of that acreage that falls within the Wetlands Conservation District;

(c) To the extent not previously satisfied in an approval for a commercial golf facility, the resort hotel and its site will comply with all of the conditions required for a commercial golf facility;

11. Editor's Note: See Ch. 110, Site Plan Review.

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(d) In addition to the buffer area required for commercial golf courses, the resort hotel building(s) shall be set back no closer than 1,000 feet to the boundary line of any other unaffiliated lot or roadway (An "unaffiliated lot or roadway" is a lot or roadway not owned or controlled by the applicant or its principals.); and

(e) The number of guest rooms in the resort hotel will be dependent upon the acreage allocated to the combined facility/resort hotel lot, at a ratio of two acres per guest room.

(7) Post offices. A special exception may be granted to permit a publicly or privately owned post office, provided that:

(a) Traffic access to and from the site will not alter the character of the abutting residential neighborhood;

(b) The post office is architecturally compatible with the surrounding residential district;

(c) The proposed facility will not adversely affect abutting properties by reason of undue light, noise, density of use or decreased property values;

(d) No portion of the building may be used for any purpose other than a post office;

(e) At such time as the facility ceases to be used as a post office, the building and improvements shall either be razed or converted to a use allowed in the district; and

(f) The minimum dimensional lot requirements (lot size, setbacks, frontage, etc.) may be increased by either the Zoning Board of Adjustment or the Planning Board if it is found that the aforementioned criteria cannot be met using minimum dimensional requirements.

(8) Heliports. A special exception may be granted to permit private/noncommercial heliports, as accessory to any approved use. The requirement for a special exception to be granted under this subsection shall not be applied to the use of helicopters, or any other type of aircraft, being used on a temporary basis for such purposes as emergency response, medical necessity, ongoing construction projects that have been permitted by the Town of Conway, or temporary (fewer than seven days) news media coverage. Before a special exception for a heliport can be granted by the Zoning Board of Adjustment, the following conditions must be met:

(a) The use of the site for a heliport shall not be offensive to the character of the neighborhood;

(b) The use of the site for a heliport shall not decrease abutting property values. Evidence supporting property values must be submitted by any party with an interest in the granting of the special exception from a creditable source that is knowledgeable of land evaluation and property values;

(c) Any site being considered to contain a heliport must be, at a minimum, five acres in size;

(d) Other site dimensions, above and beyond the overall acreage requirement listed above, shall be sufficient to provide safety areas suitable to meet all FAA-suggested dimensions and requirements;

(e) Before the Zoning Board of Adjustment considers any application for a special exception for this land use, all federal and state approvals which are required must be obtained by the applicant, with copies of these approvals submitted as part of the request for a special exception; and

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(f) A major site plan approval shall be required of the applicant from the Planning Board for the heliport, which is accessory to an approved business. As a condition for the granting of the special exception, no use of the heliport may be engaged by the applicant until all conditions of the special exception, including a major site plan approval, have been satisfied by the applicant.[12]

(9) A special exception may be granted for helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term nature. No approval for a special exception shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to Town residents and their property.

(10) Business development parks. A special exception may be granted for a business development park that provides educational and technical assistance as well as incubation space and infrastructure for new and existing business development, including roads, buildings, and other necessary infrastructure within the CCVR District, provided the following conditions are satisfied:

(a) The subject property must have some of its boundary within or contiguous with the boundary of a Highway or Village Commercial District. **[Amended 4-11-2017 ATM by Art. 2]**

(b) Arterial road. The business development park must front on and access an existing arterial road.

(c) Setbacks. The minimum front, side and rear setbacks from all adjacent properties and roads shall be 100 feet.

(d) Parking lots. Parking lots shall not exceed 20,000 square feet in gross area.

(e) Nuisances; hazards. The applicant must demonstrate that the operations of the business development park, including noise, odors and any other expected hazards associated with the development, are consistent with that of a residential neighborhood.

(f) Property values. The applicant shall provide a comprehensive report, by an appraiser licensed by the State of New Hampshire, which demonstrates that there will be no negative impact on abutting properties. This report shall be reviewed and comments will be provided by the Town Assessor.

(g) Traffic study. The applicant must provide a traffic study, certified by a qualified engineer licensed by the State of New Hampshire which clearly indicates the traffic impacts that would result from the project and improvements to the existing transportation infrastructure that would be necessary to ensure appropriate access and level of service. This report shall be reviewed and comments will be provided by the Town Engineer.

(h) Buffer. A perimeter buffer area adjacent to all abutting properties and streets shall be left in its undisturbed natural state or, if disturbed, shall be replanted with indigenous species. The minimum buffer depth shall be 100 feet.

(i) Recreation use. The business development park will construct a passive and active

12. **Editor's Note: See Ch. 110, Site Plan Review.**

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recreation trail system within the project for use by tenants of the business development park and the public. The trail system shall provide links to other existing or future publicly accessible trails adjacent to the property. The rate of trail system construction shall be, at least, consistent with the rate of development of the business development park. The recreation trails may cross the buffer only to connect with existing or future publicly accessible trails on adjacent properties and if they do not impair the effectiveness of the buffer.

(j) Green space. Green space shall comprise not less than 35% of the total lot area, exclusive of wetlands, water bodies, the one-hundred-year floodplain and slopes over 25%.

(11) Kennels. A special exception may be granted to permit kennels for transient (fewer than 30 days) housing of domestic animals or commercial breeding facilities for domestic animals, provided that:

(a) Minimum lot size is two acres.

(b) Animal housing areas, if indoors, shall be set back 40 feet from side and rear property lines and 60 feet from rights-of-way. Pastures/Outdoor exercise areas shall be set back 15 feet from any property line.

(c) A written plan for the disposal/removal of animal waste must be submitted along with the application requesting the special exception from the Zoning Board of Adjustment. This plan must be approved by the Board as a condition of the special exception approval, if granted.

(d) All animals shall be kept in an indoor area between the hours of 6:00 p.m. and 8:00 a.m.

(e) At no time shall noise from a kennel operation exceed 70 decibels when measured at a property line. Sound barriers or additional setback area may be required to limit sound impacts on abutting properties. At any time, the Town may demand noise levels be verified by a qualified engineer. **[Added 4-9-2024ATM by Art. 17]**

(12) Wireless communication facilities. Wireless communication facilities may be allowed by special exception in the CCVR District, on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:

(a) Since the visual impact of wireless communication facilities can transcend Town lines, communities that may be visually affected shall be formally notified of applications for such proposed facilities as projects having regional impact.

(b) The applicant must demonstrate that every reasonable effort has been made to cause the facility to have the least possible visual impact on the Town at large, including demonstration of realistic analysis of multiple sites, the need for the proposed height, and any impact on significant roadside viewpoints.

(c) Any wireless communication facility shall be designed to accommodate multiple providers of communication services and will only be approved under the condition that the primary developer of the facility will make the facility available upon reasonable terms, by lease or other legal instruments, to other wireless communication services.

(d) The Board of Adjustment may request detailed plans from the applicant and may, at the expense of the applicant, engage the services of professional consultants to review and

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comment on the proposal, and testimony of the applicants or their agents relating thereto.

(e) Major site plan approval must be obtained from the Planning Board.[13]

§ 190-15. Conway Village Residential (CVR) District. [Amended 4-14-2015 ATM by Art. 2, Art. 3, Art. 4; 4-12-2016 ATM by Art. 2, Art. 3, Art. 4; 4-11-2017 ATM by Art. 2]

The CVR District is primarily designed to accommodate a mix of uses that complement the Village's residential neighborhoods. This area is generally serviced by municipal water and sewer services, thereby accommodating higher densities in the order of two units to four units per acre. Domestic farm animals are specifically prohibited in this district. Land uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries.

(1) The CVR District shall have the following bounds (Map and Parcel numbers refer to 2003 Town of Conway Tax Maps):

Commencing at a point being the northeast corner of Map 265, Parcel 202; thence southerly along the eastern boundary of Map 265, Parcel 202 to the southeastern corner of Map 265, Parcel 202; thence traversing Route 113 (East Main Street) in a straight line to the northeast corner of Map 265, Parcel 9; thence southerly along the eastern boundary of Map 265, Parcel 9 to the southeast corner of Map 265, Parcel 9;

thence westerly along the southern boundary of Map 265, Parcel 9 to the southwest corner of Map 265, Parcel 9; thence northerly along the western boundary of Map 265, Parcel 9 to the northeast corner of Map 265, Parcel 11; thence westerly along the northern boundary of Map 265, Parcel 11 to the southwest corner of Map 265, Parcel 18; thence traversing Map 276, Parcel 86 in a straight line to the northeast corner of Map 276, Parcel 3; thence westerly along the northern boundary of Map 276, Parcel 3 to the northwest corner of Map 276, Parcel 3; thence southerly along the western boundary of Map 276, Parcels 3 and 2 to the southwest corner of Map 276, Parcel 2; thence southerly along the western boundary of Map 276, Parcel 16 to the southeast corner of Map 276, Parcel 16; thence westerly along the southern boundary of Map 276, Parcel 16 and continuing in a straight line to the center line of Pollard Street;

thence southerly along the center line of Pollard Street and continuing in a straight line traversing Map 276, Parcel 86 to the southeast corner of Map 276, Parcel 79; thence southwesterly along the southern boundary of Map 276, Parcel 79 and continuing in a straight line to the center line of Route 153 (Eaton Road); thence northerly along the center line of Route 153 (Eaton Road) to the intersection of the center line of Tasker Hill Road; thence southerly along the center line of Tasker Hill Road to the intersection of the center line of Quint Street;

thence westerly along the center line of Quint Street to a point adjacent to the northeast corner of Map 276, Parcel 140; thence southwesterly through the northeast corner of Map 276, Parcel 140 and along the eastern boundary of Map 276, Parcel 140 to the southeast corner of Map 276, Parcel 140; thence westerly and southerly along the northern boundary of Map 276, Parcels 139 to the southeast corner of Map 276, Parcel 145; thence westerly along the southern boundary of Map 276, Parcels 145 to the southwest corner of Map 276, Parcel 145; thence northerly along the western boundary of Map 276, Parcels 145, 146, 147, 148 and 149 to the northwest corner of Map 276, Parcel 149; thence easterly along the northern boundary of Map 276, Parcels 149,

13. **Editor's Note: See Ch. 110, Site Plan Review.**

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150, 151, 152 and 153 to the southwest corner of Map 276, Parcel 167;

thence northerly to the northwest corner of Map 276, Parcel 167; thence northerly and westerly along the southern boundary of Map 276, Parcel 168 to the southwest corner of Map 276, Parcel 168; thence northerly, along the western boundary of Map 276, Parcel 168 to the northwest corner of Map 276, Parcel 168; thence northerly in a straight line to the southwest corner of Map 276, Parcel 239; thence northerly along the western boundary of Map 276, Parcels 239, 240, 241, 242 and 243 to the southern boundary of Map 276, Parcel 244; thence westerly along the southern boundary of Map 276, Parcel 244 to the southwest corner of Map 276, Parcel 244; thence northerly along the western boundary of Map 276, Parcels 244, 245, 246 and 247 to the southern boundary of Map 276, Parcel 248; thence westerly along the southern boundary of Map 276, Parcel 248 to the eastern shore of Pequawket Pond;

thence easterly along the shore of Pequawket Pond to the northeast corner of Map 276, Parcel 249; thence traversing Page Randall Brook in a straight line to the northwest corner of Map 276, Parcel 271; thence easterly along the northern boundary of Map 276, Parcel 271 to the southwest corner of Map 276, Parcel 273; thence northerly to the northwest corner of Map 276, Parcel 273; thence easterly along the northern boundary of Map 276, Parcel 273 and continuing in a straight line to the center line of Route 153 (Pleasant Street); thence northerly along the center line of Route 153 (Pleasant Street) to the intersection with the center line of Greenwood Street;

thence easterly along the center line of Greenwood Street to the intersection with the center line of Wilder Street; thence northerly along the center line of Wilder Street to the intersection with the center line of Route 113 (East Main Street); thence easterly along the center line of Route 113 (East Main Street) to a point adjacent to the southwest corner of Map 265, Parcel 174; thence northerly through the southwest corner of Map 265, Parcel 174 and along the western boundary of Map 265, Parcel 174 to the southern boundary of Map 265, Parcel 175; thence westerly along the southern boundary of Map 265, Parcel 175 to the southwest corner of Map 265, Parcel 175; thence northerly along the western boundary of Map 265, Parcels 175, 176 and 177 to the southern shore of the Saco River, and thence easterly along the southern shore of the Saco River back to the point of commencement.

(2) District map. The CVR District Map is included as an attachment to this chapter.

B. Lot size and density.

(1) Lots serviced by a municipal water system and municipal sewerage system shall have at least 1/2 acre for the first unit that may be located thereon and at least 10,000 square feet for each additional unit on the same lot.

(2) Lots serviced by a municipal water system shall have at least 1/2 acre for each unit that may be located thereon.

(3) All other lots shall have at least one acre for each unit that may be located thereon.

(4) Special exceptions.

(a) In order to preserve and safeguard Conway's older homes, but also allow for their conversion to multifamily dwellings, the Zoning Board of Adjustment may grant special exceptions for residential structures and accessory structures on the same lot, provided that: **[Amended 4-10-2018 ATM by Art. 2]**

[1] Substantially all of the structure was constructed prior to 1930.

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[2] The total number of dwelling units on the site does not exceed four.

[3] No less than 5,000 square feet of land area must be provided on the parcel for each unit that exists or is to be constructed thereon.

[4] No significant changes to the exterior lines or architectural detail are made which would diminish the historical or architectural heritage of the structure.

[5] Adequate area is available for parking outside the setback and buffer areas.

[6] Accessory structures must have at least 300 square feet of occupiable space per unit suitable for conversion to a dwelling unit.

[7] All of the dwelling units shall be used for long-term residency; short-term transient occupancies of less than 30 consecutive days of any dwelling unit is prohibited.

[8] Scaled floor plans and a scaled site drawing must be submitted to the Zoning Board of Adjustment at the time of application to ensure compliance with the requirements for this special exception.

(b) In order to help provide year-round housing, one accessory dwelling unit shall be permitted without a special exception and by right by the Building Inspector as an accessory to a single-family dwelling on any size lot, subject to the enumerated conditions below. **[Amended 4-9-2019 ATM by Art. 2; 4-13-2021 ATM by Art. 5; 4-9-2024ATM by Art. 21]**

The Zoning Board of Adjustment may grant a special exception for a second accessory dwelling unit as an accessory use to a single-family dwelling, or one accessory dwelling unit as an accessory use to a duplex, on any size lot, subject to the following conditions:

[1] The accessory dwelling unit is designed to ensure architectural compatibility with the neighborhood.

[2] Sufficient parking is located on site with a minimum of one space per accessory dwelling unit.

[3] The accessory dwelling unit is subject to all other applicable zoning regulations including setbacks, elevations, and overlay district restrictions.

[4] The primary single-family dwelling, duplex, and accessory dwelling units, as applicable shall be used for long-term residency, and short-term transient occupancy of any dwelling unit is prohibited. The applicable occupancy restrictions shall be recorded at the Carroll County Registry of Deeds.

[5] A second accessory dwelling unit associated with a single-family dwelling and the sole accessory dwelling unit associated with a duplex shall be reserved as an affordable unit for an eligible renter as defined in § 195-8 of the Town of Conway Zoning Ordinance. The applicable affordability restrictions shall be recorded at the Carroll County Registry of Deeds.

[6] Adequate water supply and sewage disposal for an accessory dwelling unit shall be provided in accordance with RSA 485-A:38.

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[7] Site plan approval shall not be required or be a condition to the Zoning Board of Adjustment granting a special exception under this subsection.

C. Frontage. All lots must front on a state or Town highway with a Class I, II, III, IV or V classification, a private road constructed to Town standards as required by the Planning Board or a Class VI road proposed to be improved as stipulated by the Planning Board. To qualify as frontage, the lot must have access rights to the subject highway or road. The minimum distance for frontage on a road shall be:

(1) One hundred fifty feet.

(2) One hundred feet for lots which front entirely on cul-de-sacs which meet the design requirements set forth in Chapter 130, Subdivision of Land, Article X, Detail #4, and approved by the Planning Board.

D. Setbacks. The minimum front setback shall be 25 feet and the minimum side or back setback shall be 15 feet.

E. Structure and building height. Structure height is restricted to achieve several purposes. The Town is economically dependent upon tourism and attracts visitors with its rural character and mountainous setting. Maintaining the traditional scale and style of structures aids in preserving the character of the Town. Peaked roofs are encouraged because it is the traditional roof style in the Town. (Care has been taken to prepare language which does not unduly encourage the use of flat-roof buildings.) The height restriction keeps structures and buildings below treetop level, which is typically from 60 feet to 100 feet for mature maple, beech, birch and pine trees. Structure height below treetop level helps maintain the rural atmosphere and preserve the viewsheds throughout the Town. In addition, the height limit minimizes difficulty in providing fire protection. The following shall apply throughout the Town:

(1) Structure height shall not exceed 55 feet for any structure, except wind energy systems permitted in accordance with Chapter 179 of the Conway Code.

(2) Building height shall not exceed 45 feet.

(3) Church steeples may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:

(a) The space enclosed in the steeple is not usable floor space other than for the maintenance and structural purposes of the steeple.

(b) The height of the steeple is appropriate to the design and size of the church.

F. Signs. **[Amended 4-10-2018 ATM by Art. 3]**

(1) Sign setbacks. Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 15 feet from all other property boundaries.

(2) Each lot in the district shall be entitled to 12 square feet of commercial or nonresidential sign message area.

(3) Maximum sign height shall be eight feet.

(4) In addition to the above signage provisions, every lot shall be entitled to one sign not exceeding one square foot in surface area placed in any of the following locations:

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(a) On the front of any building or residence;

(b) On each side of an authorized USPS mailbox; or

(c) On a post which measures no more than 48 inches in height and four inches in width.

(5) Sign content. The Town has no intention of restricting individual free speech, but the Town does recognize its right to place reasonable restrictions upon commercial speech. Further, the Town wishes to prevent excessive or unnecessary signage along road corridors. In keeping with this reasoning, off-site commercial signs shall be prohibited.

(6) Signs in platted ROW. Except as otherwise permitted below, no signs shall be permitted within any platted right-of-way:

(a) Special promotional banners that cross a public or private road, with a message area of 200 square feet or less, as approved by the Board of Selectmen for special events.

(b) Signs sanctioned by a municipal, state or federal signage program.

(7) Temporary event signage. In addition to signage otherwise permitted herein, temporary events may display up to 20 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

(a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;

(b) Maximum sign height shall be eight feet; and

(c) Maximum sign width shall be 10 feet.

(8) Special event signage. In addition to signage otherwise permitted herein, special events may display up to 40 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

(a) Signs shall be set back a minimum of five feet from a platted right-of-way and signs shall be set back a minimum of 10 feet from all other property boundaries;

(b) Maximum sign height shall be eight feet; and

(c) Maximum sign width shall be 10 feet.

(9) Permit required for all nonresidential signs exceeding six square feet in message area.

(a) Sign application process. Any action requiring a sign permit shall be permitted only upon the application to, and approval of, the Zoning Officer. Applications shall use the following process:

[1] An application form for each sign shall be completed and signed by the owner of the property.

[2] A complete application shall also include the following:

[a] Fee as set from time to time by the Board of Selectmen;

[b] Written description of the proposed type, size, height, setback, sign and supporting structure materials, and illumination of the sign;

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[c] Statement specifically addressing compliance with off-site commercial sign restrictions; and

[d] Analysis regarding impact of safety, specifically addressing lighting/glare and line-of-sight blockage for vehicles and pedestrians.

[3] Upon receipt of a complete application, the Zoning Officer shall have up to 14 days to either approve or deny the application.

[4] If the application is denied, the Zoning Officer shall issue a written decision stating the reason(s) for denial.

[5] If the application is approved, the Zoning Officer shall issue an approval for the erection of a sign. The sign permit is valid for one year from date of approval. If the sign is not erected within one year, the permit shall expire.

(10) Design standards. The following design standards shall be required to ensure compliance with the intent of these regulations:

(a) Illumination. Signs shall not be illuminated from within; signs may be illuminated only by external light. Lighting shall be affixed to and, for dimensional purposes, considered part of the sign structure. Lighting shall be located, directed and/or shielded such that it only sheds light downward and is limited to the message display area. The lighting sources shall be of white light and be energy-efficient fixtures when possible. Fixtures shall be located, directed and/or shielded such that no direct light emissions are visible at any point along the property boundary, nor shall they be distracting to vehicular traffic.

(b) Neon. Neon lighting shall be prohibited.

(c) Motion. Moving signs, or signs which give the appearance of motion, shall be prohibited.

(d) Flashing/blinking. Flashing, blinking, alternating-type or digital-type lighting, such as a digital message board, shall be prohibited.

(e) Structural supports and base. The support and base structure of a sign shall not exceed 50% of the maximum permitted message area of the sign. Such supports and base shall be measured on the single side or face having the greatest surface area. If the sign structural supports and base are made of wood, brick and/or stone, with only incidental use of other materials, the structure/base size limit shall be increased to 100% of the maximum permitted message area of the sign. The top of the supporting structure of a freestanding sign shall extend no farther above the top of the message area than 1/3 of the maximum permitted height of the message area.

(f) No sign shall project over a street or sidewalk, except for projecting signs as permitted herein.

(g) No sign shall be placed in such a position as to endanger vehicular or pedestrian traffic by obstructing a clear view, by causing confusion with government signs and signals, or by any other means.

(11) Movable signs. Movable signs shall be prohibited. No vehicle, including parts thereof, trailers, and other accessories, shall be used as a means of circumventing the purpose and intent of this chapter. A vehicle displaying a commercial message which is licensed, registered and inspected

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shall be exempt from these sign regulations if it is regularly and customarily used to transport persons or property for the business.

(12) Flags, banners, pennants, etc.

(a) In addition to the signs otherwise permitted by this chapter, there may be displayed, on any lot, up to three flags displaying any otherwise legal symbol, message or information, commercial or noncommercial; except that off-site commercial flags shall be restricted as set forth in this chapter. No such flag shall exceed 24 square feet measured by one face of the flag only. Any such flag shall be mounted directly to one flagpole. A "flagpole" is a pole intended and placed solely for the support and display of a flag or flags, and does not include utility poles, light poles, trees or other sign structures. All flagpoles shall be erected vertically or within 45° of the vertical. No portion of any flagpole shall be sited within 10 feet of a property line. No flagpole shall extend more than 35 feet in height above grade or, if mounted on a building, 55 feet above the average finished grade of the building.

(b) Banners, feather flags, pennants, searchlights, twirling signs, balloons or other gas-filled figures, and other such materials shall be prohibited, except as specified herein.

(c) This subsection shall not be construed to prevent any sign otherwise permitted by this chapter, and which conforms to all sign requirements of this chapter, from taking the form of a flag or other fabric. Banners may be used to cover part or all of an existing freestanding, projecting or wall sign to advertise temporary events. The net effect of this activity shall not increase the message area of any permitted sign or signs.

(13) Maintenance. All surfaces and supporting structures of signs, whether erected prior to the effective date of this chapter or not, shall be maintained in a safe and sightly condition to the satisfaction of the Board of Selectmen or its authorized agent. A permit is required for any maintenance except the following: repainting; other surface renewal; or change of message on the same surface.

G. Restrictions regarding home occupations. A home occupation is considered accessory to a residential use and shall not occupy an area greater than 50% of the total floor area of the residential unit or 1,500 square feet, whichever is less. Home occupations are subject to the following provisions and restrictions:

(1) The home occupation shall be carried on by persons who live in the principal residential unit full time. Two employees living off-premises are permitted.

(2) The home occupation shall be carried on within the principal residential unit or an approved accessory structure.

(3) Exterior storage of commercial vehicles, equipment or materials or variation from the residential character of the principal residential unit shall not be permitted.

(4) The home occupation shall create no unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or other nuisance or threat to the health of the abutters.

(5) Adequate off-street parking shall be provided.

(6) A home occupation shall not generate excessive traffic or traffic in greater volumes than would normally be expected in a residential neighborhood.

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(7) A home occupation may display a sign conforming to Subsection F(10)(l) above.

(8) A change-of-use permit to operate a home occupation is required before startup of operation.

(9) Retail or wholesale sales are only permitted for those items raised or made on the premises.

(10) A home occupation shall not be offensive to the character of the neighborhood or decrease abutting property values.

H. Yard sales. Yard sales shall be permitted, provided that no one household holds sales on more than six days per calendar year.

I. Mobile homes, travel trailers and recreational vehicles.

(1) A mobile home, travel trailer or recreational vehicle may be permitted on the site of a construction project for one year, provided that it is a necessary convenience for the construction project and that no public safety or health hazards shall be created.

(2) One travel trailer or recreational vehicle may be stored on a lot, provided that it is accessory to a permitted residential use on the subject property and not utilized for dwelling purposes. Travel trailers and recreational vehicles shall not be stored on vacant lots.

(3) All mobile homes permitted under this subsection must be connected to a sewerage system and water source, both meeting minimum local and State of New Hampshire standards, as applicable and then promulgated; such systems shall be approved by the Selectmen or their designated agent and be maintained so as not to cause a health or sanitation hazard.

J. Special exceptions. The following land uses shall be allowed if granted a special exception by the Zoning Board of Adjustment:

(1) Private educational facilities. A special exception may be granted to permit private educational facilities, with or without accessory uses, provided that:

(a) Traffic access to and from the facility will not alter the character of the abutting residential neighborhood;

(b) The development is architecturally compatible with the height, scale, color and detail of the surrounding residential neighborhood; and

(c) The proposed facility will not adversely affect abutting properties by reason of undue light, noise, density of use, or other nuisance.

(2) Day-care centers. A special exception may be granted to home-based day-care centers serving seven people to 15 people and other non-home-based centers, regardless of the number of people served, provided that:

(a) Traffic access to and from the development will not alter the character of the abutting residential neighborhood;

(b) The development is architecturally compatible with the height, scale, color and detail of the surrounding residential neighborhood;

(c) Site plan approval or a site plan exemption is granted by the Planning Board; and

(d) The size of the lot is appropriate to provide green space and play areas.

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(3) Post offices. A special exception may be granted to permit a publicly or privately owned post office, provided that:

(a) Traffic access to and from the site will not alter the character of the abutting residential neighborhood;

(b) The post office is architecturally compatible with the surrounding residential district;

(c) The proposed facility will not adversely affect abutting properties by reason of undue light, noise, density of use or decreased property values;

(d) No portion of the building may be used for any purpose other than a post office;

(e) At such time as the facility ceases to be used as a post office, the building and improvements shall either be razed or converted to a use allowed in the district; and

(f) The minimum dimensional lot requirements (lot size, setbacks, frontage, etc.) may be increased by either the Zoning Board of Adjustment or the Planning Board if it is found that the aforementioned criteria cannot be met using minimum dimensional requirements.

(4) Helicopters. A special exception may be granted for helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term nature. No approval for a special exception shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to Town residents and their property.

§ 190-16. North Conway Village Residential (NCVR) District.

The NCVR District is primarily designed to accommodate a mix of uses that complement the Village's residential neighborhoods. This area is generally serviced by municipal water and sewer services, thereby accommodating higher densities in the order of two units to four units per acre. Domestic farm animals are specifically prohibited in this district. Land uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries.

(1) The NCVR District shall have the following bounds (Map and Parcel numbers refer to 2003 Town of Conway Tax Maps):

Commencing at a point on the center line of Kearsarge Road adjacent to the northeast corner Map 214, Parcel 23.1; thence southerly along the center line of Kearsarge Road to the intersection of the center line of Skimobile Road;

thence easterly along the center line of Skimobile Road to a point adjacent to the northeast corner of Map 219, Parcel 106; thence southerly in a straight line through the northeast corner of Map 219, Parcel 106 to the southeast corner of Map 219, Parcel 106; thence westerly and southerly along the western boundary of Map 219, Parcel 105 to the northeast corner of Map 219, Parcel 186; thence southerly along the eastern boundary of Map 219, Parcel 186 to the southeast corner of Map 219, Parcel 186;

thence westerly along the northern boundary of Map 219, Parcel 218 to the southeast corner of Map 219, Parcel 199; thence westerly, northerly and westerly along the southern boundary

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of Map 219, Parcel 199 to the southwest corner of Map 219, Parcel 199; thence westerly in a straight line traversing Map 219, Parcel 211 to the center line of the North-South Road;

thence northerly along the center line of the North-South Road and continuing along the center line of Map 202, Parcel 150 (former Main Central Railroad ROW) to a point adjacent to the southwest corner of Map 214, Parcel 31; thence easterly along the southern boundary of Map 214, Parcel 31 to the northeast corner of Map 214, Parcel 23.3; thence southerly along the eastern boundary of Map 214, Parcel 23.3 to the northwest corner of Map 214, Parcel 23.2; thence easterly along the northern boundary of Map 214, Parcels 23.2 and 23.1, and continuing in a straight line to the point of commencement.

(2) District map. The NCVR District Map is included as an attachment to this chapter.

B. Lot size and density.

(1) Lots serviced by a municipal water system and municipal sewerage system shall have at least 1/2 acre for the first unit that may be located thereon and at least 10,000 square feet for each additional unit on the same lot.

(2) Lots serviced by a municipal water system shall have at least 1/2 acre for each unit that may be located thereon.

(3) All other lots shall have at least one acre for each unit that may be located thereon.

(4) Special exceptions.

(a) In order to preserve and safeguard Conway's older homes, but also allow for their conversion to multifamily dwellings, the Zoning Board of Adjustment may grant special exceptions for residential structures and accessory structures on the same lot, provided that: **[Amended 4-10-2018 ATM by Art. 2;5-12-2020ATM by Art. 4]**

[1] Substantially all of the structure was constructed prior to 1930.

[2] The total number of dwelling units on the site does not exceed four.

[3] No less than 5,000 square feet of land area must be provided on the parcel for each unit that exists or is to be constructed thereon.

[4] No significant changes to the exterior lines or architectural detail are made which would diminish the historical or architectural heritage of the structure.

[5] Adequate area is available for parking outside the setback and buffer areas.

[6] Accessory structures must have at least 300 square feet of occupiable space per unit suitable for conversion to a dwelling unit.

[7] All of the dwelling units shall be used for long-term residency; short-term transient occupancies of less than 30 consecutive days of any dwelling unit is prohibited.

[8] Scaled floor plans and a scaled site drawing must be submitted to the Zoning Board of Adjustment at the time of application to ensure compliance with the requirements for this special exception.

(b) In order to help provide year-round housing, one accessory dwelling unit shall be permitted without a special exception and by right by the Building Inspector as an

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accessory to a single-family dwelling on any size lot, subject to the enumerated conditions below. **[Amended 4-9-2019 ATM by Art. 2; 4-13-2021 ATM by Art. 5; 4-9-2024ATM by Art. 21]**

The Zoning Board of Adjustment may grant a special exception for a second accessory dwelling unit as an accessory use to a single-family dwelling, or one accessory dwelling unit as an accessory use to a duplex, on any size lot, subject to the following conditions:

[1] The accessory dwelling unit is designed to ensure architectural compatibility with the neighborhood.

[2] Sufficient parking is located on site with a minimum of one space per accessory dwelling unit.

[3] The accessory dwelling unit is subject to all other applicable zoning regulations including setbacks, elevations, and overlay district restrictions.

[4] The primary single-family dwelling, duplex, and accessory dwelling units, as applicable shall be used for long-term residency, and short-term transient occupancy of any dwelling unit is prohibited. The applicable occupancy restrictions shall be recorded at the Carroll County Registry of Deeds.

[5] A second accessory dwelling unit associated with a single-family dwelling and the sole accessory dwelling unit associated with a duplex shall be reserved as an affordable unit for an eligible renter as defined in § 195-8 of the Town of Conway Zoning Ordinance. The applicable affordability restrictions shall be recorded at the Carroll County Registry of Deeds.

[6] Adequate water supply and sewage disposal for an accessory dwelling unit shall be provided in accordance with RSA 485-A:38.

[7] Site plan approval shall not be required or be a condition to the Zoning Board of Adjustment granting a special exception under this subsection.

C. Frontage. All lots must front on a state or Town highway with a Class I, II, III, IV or V classification, a private road constructed to Town standards as required by the Planning Board or a Class VI road proposed to be improved as stipulated by the Planning Board. To qualify as frontage, the lot must have access rights to the subject highway or road. The minimum distance for frontage on a road shall be:

(1) One hundred fifty feet.

(2) One hundred feet for lots which front entirely on cul-de-sacs which meet the design requirements set forth in Chapter 130, Subdivision of Land, Article X, Detail #4, and approved by the Planning Board.

D. Setbacks. The minimum front setback shall be 25 feet and the minimum side or back setback shall be 15 feet.

E. Structure and building height. Structure height is restricted to achieve several purposes. The Town is economically dependent upon tourism and attracts visitors with its rural character and mountainous setting. Maintaining the traditional scale and style of structures aids in preserving the character of the

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Town. Peaked roofs are encouraged because it is the traditional roof style in the Town. (Care has been taken to prepare language which does not unduly encourage the use of flat-roof buildings.) The height restriction keeps structures and buildings below treetop level, which is typically from 60 feet to 100 feet for mature maple, beech, birch and pine trees. Structure height below treetop level helps maintain the rural atmosphere and preserve the viewsheds throughout the Town. In addition, the height limit minimizes difficulty in providing fire protection. The following shall apply throughout the Town:

(1) Structure height shall not exceed 55 feet for any structure, except wind energy systems permitted in accordance with Chapter 179 of the Conway Code. **[Amended 4-11-2017 ATM by Art. 2]**

(2) Building height shall not exceed 45 feet.

(3) Church steeples may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:

(a) The space enclosed in the steeple is not usable floor space other than for the maintenance and structural purposes of the steeple.

(b) The height of the steeple is appropriate to the design and size of the church.

F. Signs. **[Amended 4-14-2015 ATM by Arts. 2 and 4; 4-12-2016 ATM by Arts. 2 and 4; 4-11-2017 ATM by Art. 2; 4-10-2018 ATM by Art. 3]**

(1) Sign setbacks. Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 15 feet from all other property boundaries.

(2) Each lot in the district shall be entitled to 12 square feet of commercial or nonresidential sign message area.

(3) Maximum sign height shall be eight feet.

(4) In addition to the above signage provisions, every lot shall be entitled to one sign not exceeding one square foot in surface area placed in any of the following locations:

(a) On the front of any building or residence;

(b) On each side of an authorized USPS mailbox; or

(c) On a post which measures no more than 48 inches in height and four inches in width.

(5) Sign content. The Town has no intention of restricting individual free speech, but the Town does recognize its right to place reasonable restrictions upon commercial speech. Further, the Town wishes to prevent excessive or unnecessary signage along road corridors. In keeping with this reasoning, off-site commercial signs shall be prohibited.

(6) Signs in platted ROW. Except as otherwise permitted below, no signs shall be permitted within any platted right-of-way:

(a) Special promotional banners that cross a public or private road, with a message area of 200 square feet or less, as approved by the Board of Selectmen for special events.

(b) Signs sanctioned by a municipal, state or federal signage program.

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(7) Temporary event signage. In addition to signage otherwise permitted herein, temporary events may display up to 20 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

(a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;

(b) Maximum sign height shall be eight feet; and

(c) Maximum sign width shall be 10 feet.

(8) Special event signage. In addition to signage otherwise permitted herein, special events may display up to 40 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

(a) Signs shall be set back a minimum of five feet from a platted right-of-way and signs shall be set back a minimum of 10 feet from all other property boundaries;

(b) Maximum sign height shall be eight feet; and

(c) Maximum sign width shall be 10 feet.

(9) Permit required for all nonresidential signs exceeding six square feet in message area.

(a) Sign application process. Any action requiring a sign permit shall be permitted only upon the application to, and approval of, the Zoning Officer. Applications shall use the following process:

[1] An application form for each sign shall be completed and signed by the owner of the property.

[2] A complete application shall also include the following:

[a] Fee as set from time to time by the Board of Selectmen;

[b] Written description of the proposed type, size, height, setback, sign and supporting structure materials, and illumination of the sign;

[c] Statement specifically addressing compliance with off-site commercial sign restrictions; and

[d] Analysis regarding impact of safety, specifically addressing lighting/glare and line-of-sight blockage for vehicles and pedestrians.

[3] Upon receipt of a complete application, the Zoning Officer shall have up to 14 days to either approve or deny the application.

[4] If the application is denied, the Zoning Officer shall issue a written decision stating the reason(s) for denial.

[5] If the application is approved, the Zoning Officer shall issue an approval for the erection of a sign. The sign permit is valid for one year from date of approval. If the sign is not erected within one year, the permit shall expire.

(10) Design standards. The following design standards shall be required to ensure compliance with

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the intent of these regulations:

(a) Illumination. Signs shall not be illuminated from within; signs may be illuminated only by external light. Lighting shall be affixed to and, for dimensional purposes, considered part of the sign structure. Lighting shall be located, directed and/or shielded such that it only sheds light downward and is limited to the message display area. The lighting sources shall be of white light and be energy-efficient fixtures when possible. Fixtures shall be located, directed and/or shielded such that no direct light emissions are visible at any point along the property boundary, nor shall they be distracting to vehicular traffic.

(b) Neon. Neon lighting shall be prohibited.

(c) Motion. Moving signs, or signs which give the appearance of motion, shall be prohibited.

(d) Flashing/blinking. Flashing, blinking, alternating-type or digital-type lighting, such as a digital message board, shall be prohibited.

(e) Structural supports and base. The support and base structure of a sign shall not exceed 50% of the maximum permitted message area of the sign. Such supports and base shall be measured on the single side or face having the greatest surface area. If the sign structural supports and base are made of wood, brick and/or stone, with only incidental use of other materials, the structure/base size limit shall be increased to 100% of the maximum permitted message area of the sign. The top of the supporting structure of a freestanding sign shall extend no farther above the top of the message area than 1/3 of the maximum permitted height of the message area.

(f) No sign shall project over a street or sidewalk, except for projecting signs as permitted herein.

(g) No sign shall be placed in such a position as to endanger vehicular or pedestrian traffic by obstructing a clear view, by causing confusion with government signs and signals, or by any other means.

(11) Movable signs. Movable signs shall be prohibited. No vehicle, including parts thereof, trailers, and other accessories, shall be used as a means of circumventing the purpose and intent of this chapter. A vehicle displaying a commercial message which is licensed, registered and inspected shall be exempt from these sign regulations if it is regularly and customarily used to transport persons or property for the business.

(12) Flags, banners, pennants, etc.

(a) In addition to the signs otherwise permitted by this chapter, there may be displayed, on any lot, up to three flags displaying any otherwise legal symbol, message or information, commercial or noncommercial; except that off-site commercial flags shall be restricted as set forth in this chapter. No such flag shall exceed 24 square feet measured by one face of the flag only. Any such flag shall be mounted directly to one flagpole. A "flagpole" is a pole intended and placed solely for the support and display of a flag or flags, and does not include utility poles, light poles, trees or other sign structures. All flagpoles shall be erected vertically or within 45° of the vertical. No portion of any flagpole shall be sited within 10 feet of a property line. No flagpole shall extend more than 35 feet in height above grade or, if mounted on a building, 55 feet above the average finished grade of the building.

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(b) Banners, feather flags, pennants, searchlights, twirling signs, balloons or other gas-filled figures, and other such materials shall be prohibited, except as specified herein.

(c) This subsection shall not be construed to prevent any sign otherwise permitted by this chapter, and which conforms to all sign requirements of this chapter, from taking the form of a flag or other fabric. Banners may be used to cover part or all of an existing freestanding, projecting or wall sign to advertise temporary events. The net effect of this activity shall not increase the message area of any permitted sign or signs.

(13) Maintenance. All surfaces and supporting structures of signs, whether erected prior to the effective date of this chapter or not, shall be maintained in a safe and sightly condition to the satisfaction of the Board of Selectmen or its authorized agent. A permit is required for any maintenance except the following: repainting; other surface renewal; or change of message on the same surface.

G. Restrictions regarding home occupations. A home occupation is considered accessory to a residential use and shall not occupy an area greater than 50% of the total floor area of the residential unit or 1,500 square feet, whichever is less. Home occupations are subject to the following provisions and restrictions:

(1) The home occupation shall be carried on by persons who live in the principal residential unit full time. Two employees living off-premises are permitted.

(2) The home occupation shall be carried on within the principal residential unit or an approved accessory structure.

(3) Exterior storage of commercial vehicles, equipment or materials or variation from the residential character of the principal residential unit shall not be permitted.

(4) The home occupation shall create no unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or other nuisance or threat to the health of the abutters.

(5) Adequate off-street parking shall be provided.

(6) A home occupation shall not generate excessive traffic or traffic in greater volumes than would normally be expected in a residential neighborhood.

(7) A home occupation may display a sign conforming to Subsection F(10)(l) above. **[Amended 4-11-2017 ATM by Art. 2]**

(8) A change-of-use permit to operate a home occupation is required before startup of operation.

(9) Retail or wholesale sales are only permitted for those items raised or made on the premises.

(10) A home occupation shall not be offensive to the character of the neighborhood or decrease abutting property values.

H. Yard sales. Yard sales shall be permitted, provided that no one household holds sales on more than six days per calendar year. **[Amended 4-11-2017 ATM by Art. 2]**

I. Mobile homes, travel trailers and recreational vehicles.

(1) A mobile home, travel trailer or recreational vehicle may be permitted on the site of a construction project for one year, provided that it is a necessary convenience for the construction

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project and that no public safety or health hazards shall be created.

(2) One travel trailer or recreational vehicle may be stored on a lot, provided that it is accessory to a permitted residential use on the subject property and not utilized for dwelling purposes. Travel trailers and recreational vehicles shall not be stored on vacant lots. **[Amended 4-12-2016 ATM by Art. 3]**

(3) All mobile homes permitted under this subsection must be connected to a sewerage system and water source, both meeting minimum local and State of New Hampshire standards, as applicable and then promulgated; such systems shall be approved by the Selectmen or their designated agent and be maintained so as not to cause a health or sanitation hazard.

J. Special exceptions. The following land uses shall be allowed if granted a special exception by the Zoning Board of Adjustment:

(1) Private educational facilities. A special exception may be granted to permit private educational facilities, with or without accessory uses, provided that:

(a) Traffic access to and from the facility will not alter the character of the abutting residential neighborhood;

(b) The development is architecturally compatible with the height, scale, color and detail of the surrounding residential neighborhood; and

(c) The proposed facility will not adversely affect abutting properties by reason of undue light, noise, density of use, or other nuisance.

(2) Day-care centers. A special exception may be granted to home-based day-care centers serving seven people to 15 people and other non-home-based centers, regardless of the number of people served, provided that:

(a) Traffic access to and from the development will not alter the character of the abutting residential neighborhood;

(b) The development is architecturally compatible with the height, scale, color and detail of the surrounding residential neighborhood;

(c) Site plan approval or a site plan exemption is granted by the Planning Board; and

(d) The size of the lot is appropriate to provide green space and play areas.

(3) Post offices. A special exception may be granted to permit a publicly or privately owned post office, provided that:

(a) Traffic access to and from the site will not alter the character of the abutting residential neighborhood;

(b) The post office is architecturally compatible with the surrounding residential district;

(c) The proposed facility will not adversely affect abutting properties by reason of undue light, noise, density of use or decreased property values;

(d) No portion of the building may be used for any purpose other than a post office;

(e) At such time as the facility ceases to be used as a post office, the building and

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improvements shall either be razed or converted to a use allowed in the district; and

(f) The minimum dimensional lot requirements (lot size, setbacks, frontage, etc.) may be increased by either the Zoning Board of Adjustment or the Planning Board if it is found that the aforementioned criteria cannot be met using minimum dimensional requirements.

(4) Helicopters. A special exception may be granted for helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term nature. No approval for a special exception shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to Town residents and their property.

§ 190-17. Center Conway Village Commercial (CCVC) District.

The CCVC District is primarily designed to accommodate a compatible mixture of uses that complement commercial and residential uses typically associated with village centers. This district is not serviced by municipal water and sewer and is, generally, not yet appropriate for development at densities higher than one unit per acre. Uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. The Center Conway Village Commercial District shall have the same permitted uses and limitations otherwise provided in the Village Commercial District under this chapter,[14] except the additional following limitations shall apply:

(1) Mobile homes shall be prohibited;

(2) Mobile home parks shall be prohibited;

(3) Retail use in excess of 3,000 square feet shall be prohibited;

(4) Wholesale and light industry shall be prohibited except as provided in regulations regarding home occupations in § 190-14G;

(5) Any size underground or above-ground on-site storage tanks for classified or hazardous materials are prohibited. This does not include storage tanks used for heating fuel for commercial or domestic use or an approved use; and

(6) Garage and filling stations shall be prohibited.

B. District boundaries.

(1) The CCVC District shall have the following bounds (Map and Parcel numbers refer to 2003 Town of Conway Tax Maps):

Commencing at the point on the southern boundary of Map 219, Parcel 211 (former Maine Central Railroad ROW) at the northwest corner of Map 259, Parcel 19; thence southerly along the western boundary of Map 259, Parcel 19 to the northeast corner of Map 259, Parcel 14; thence southwesterly along the eastern boundary of Map 259, Parcel 14 to the center line of Route 302; thence westerly along the center line of Route 302 to a point adjacent to the northeast corner of Map 260, Parcel 40;

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14. Editor's Note: See § 190-18 below.

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thence southerly in a straight line through the northeast corner of Map 260, Parcel 40 and along the eastern boundary of Map 260, Parcels 40 and 45 to a distance of 1,200 feet from the center line of Route 302; thence westerly, maintaining the distance of 1,200 feet from the center line of Route 302, to the eastern boundary of Map 260, Parcel 58;

thence northerly along the eastern boundary of Map 260, Parcel 58 to the southeast corner of Map 260, Parcel 54; thence westerly to the southwest corner of Map 260, Parcel 54; thence northerly along the western boundary of Map 260, Parcel 54 to the northwest corner of Map 260, Parcel 54; thence north to the center line of Route 302;

thence easterly along the center line of Route 302 to a point adjacent to the southwest corner of Map 260, Parcel 78; thence northerly through the southwest corner of Map 260, Parcel 78 and along the western boundary of Map 260, Parcels 78 and 79 to the southern boundary of Map 219, Parcel 211 (former Maine Central Railroad ROW); and thence easterly along the southern boundary of Map 219, Parcel 211 (former Maine Central Railroad ROW) to the point of commencement.

(2) District map. The CCVC District Map is included as an attachment to this chapter.

C. Lot size and density.

(1) Lots serviced by a municipal water system and municipal sewerage system shall have at least 1/2 acre for the first unit that may be located thereon and at least 10,000 square feet for each additional unit on the same lot.

(2) Lots serviced by a municipal water system shall have at least 1/2 acre for each unit that may be located thereon.

(3) The minimum lot size for keeping domestic farm animals shall be one acre.

(4) All other lots shall have at least one acre for each unit that may be located thereon.

(5) Special exceptions.

(a) In order to preserve and safeguard Conway's older homes, but also allow for their conversion to multifamily dwellings, the Zoning Board of Adjustment may grant special exceptions for residential structures and accessory structures on the same lot, provided that: **[Amended 4-10-2018 ATM by Art. 2; 4-9-2019 ATM by Art. 4]**

[1] Substantially all of the structure was constructed prior to 1930.

[2] The total number of dwelling units on the site does not exceed four. **[Amended 5-12-2020ATM by Art. 4]**

[3] No less than 5,000 square feet of land area must be provided on the parcel for each unit that exists or is to be constructed thereon.

[4] No significant changes to the exterior lines of the building or exterior architectural detail are made which would diminish the historical appearance of the structure.

[5] Adequate area is available for parking outside the setback and buffer areas.

[6] Accessory structures must have at least 300 square feet of occupiable space per unit suitable for conversion to a dwelling unit. **[Amended 5-12-2020ATM by Art. 4[15]**

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[7] All of the dwelling units shall be used for long-term residency; short-term transient occupancies of less than 30 consecutive days of any dwelling unit is prohibited. **[Added 5-12-2020 ATM by Art. 4]**

[8] Scaled floor plans and a scaled site drawing must be submitted to the Zoning Board of Adjustment at the time of application to ensure compliance with the requirements for this special exception. **[Added 5-12-2020 ATM by Art. 4]**

(b) In order to help provide year-round housing, one accessory dwelling unit shall be permitted without a special exception and by right by the Building Inspector as an accessory to a single-family dwelling on any size lot, subject to the enumerated conditions below. **[Amended 4-9-2019 ATM by Art. 2; 4-13-2021 ATM by Art. 5; 4-9-2024ATM by Art. 21]**

The Zoning Board of Adjustment may grant a special exception for a second accessory dwelling unit as an accessory use to a single-family dwelling, or one accessory dwelling unit as an accessory use to a duplex, on any size lot, subject to the following conditions:

[1] The accessory dwelling unit is designed to ensure architectural compatibility with the neighborhood.

[2] Sufficient parking is located on site with a minimum of one space per accessory dwelling unit.

[3] The accessory dwelling unit is subject to all other applicable zoning regulations including setbacks, elevations, and overlay district restrictions.

[4] The primary single-family dwelling, duplex, and accessory dwelling units, as applicable shall be used for long-term residency, and short-term transient occupancy of any dwelling unit is prohibited. The applicable occupancy restrictions shall be recorded at the Carroll County Registry of Deeds.

[5] A second accessory dwelling unit associated with a single-family dwelling and the sole accessory dwelling unit associated with a duplex shall be reserved as an affordable unit for an eligible renter as defined in § 195-8 of the Town of Conway Zoning Ordinance. The applicable affordability restrictions shall be recorded at the Carroll County Registry of Deeds.

[6] Adequate water supply and sewage disposal for an accessory dwelling unit shall be provided in accordance with RSA 485-A:38.

[7] Site plan approval shall not be required or be a condition to the Zoning Board of Adjustment granting a special exception under this subsection.

(c) The Zoning Board of Adjustment may grant a special exception for up to eight dwelling units per acre in the Village Commercial and Highway Commercial Districts under the following conditions:

[1] Each structure must contain at least three dwelling units.

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15. Editor's Note: This article also repealed former Subsection C(5)(a)[6], requiring an approved sewerage disposal system, and [7], requiring submission of architectural design plans and a to-scale sketch, and renumbered former Subsection C(5)(a)[8] as Subsection C(5)(a)[6].

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[2] Not less than 25% of all dwelling units shall be designated as full-time rental apartments. At the time of Planning Board approval, the units designated as full-time rental apartments must be shown on the plan with a condition that they are leased for no less than 20 years from the date of Planning Board approval by the developer, and a deed restriction shall be recorded in the Registry of Deeds as evidence of the same.

[3] The subject property is serviced by precinct water and sewer or the New Hampshire Department of Environmental Services shall have issued a permit for construction of a sewerage and waste disposal system.

[4] Rental/Deed-restricted units shall be a maximum of 1,000 square feet and a minimum of 300 square feet.

[5] Architectural design plans must be submitted to the Zoning Board of Adjustment at the time of application to ensure compliance with the zoning regulations.

D. Frontage. All lots must front on a state or Town highway with a Class I, II, III, IV or V classification, a private road constructed to Town standards as required by the Planning Board or a Class VI road proposed to be improved as stipulated by the Planning Board. To qualify as frontage, the lot must have access rights to the subject highway or road. The minimum distance for frontage on a road shall be:

(1) Fifty feet.

(2) One hundred feet for lots which front entirely on cul-de-sacs which meet the design requirements set forth in Chapter 130, Subdivision of Land, Article X, Detail #4, and approved by the Planning Board.

E. Setbacks. The minimum front setback shall be 25 feet and the minimum side or back setback shall be 10 feet.

F. Structure and building height. Structure height is restricted to achieve several purposes. The Town is economically dependent upon tourism and attracts visitors with its rural character and mountainous setting. Maintaining the traditional scale and style of structures aids in preserving the character of the Town. Peaked roofs are encouraged because it is the traditional roof style in the Town. (Care has been taken to prepare language which does not unduly encourage the use of flat-roof buildings.) The height restriction keeps structures and buildings below treetop level, which is typically from 60 feet to 100 feet for mature maple, beech, birch and pine trees. Structure height below treetop level helps maintain the rural atmosphere and preserve the viewsheds throughout the Town. In addition, the height limit minimizes difficulty in providing fire protection. The following shall apply throughout the Town:

(1) Structure height shall not exceed 40 feet for any structure, except wind energy systems permitted in accordance with Chapter 179 of the Conway Code. **[Amended 4-11-2017 ATM by Art. 2; 4-12-2022ATM by Art. 2]**

(2) Building height shall not exceed 30 feet. **[Amended 4-12-2022ATM by Art. 2]**

(3) Church steeples may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:

(a) The space enclosed in the steeple is not usable floor space other than for the maintenance and structural purposes of the steeple.

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(b) The height of the steeple is appropriate to the design and size of the church.

G. Signs. **[Amended 4-14-2015 ATM by Arts. 2, 3 and 4; 4-12-2016 ATM by Arts. 2 and 4; 4-11-2017 ATM by Art. 2; 4-10-2018 ATM by Art. 3]**

(1) Sign content. The Town has no intention of restricting individual free speech, but the Town does recognize its right to place reasonable restrictions upon commercial speech. Further, the Town wishes to prevent excessive or unnecessary signage along road corridors. In keeping with this reasoning, off-site commercial signs shall be prohibited.

(2) Freestanding sign. There shall be no more than one freestanding sign per lot, except that where a lot fronts on two or more public rights-of-way and has two entrances at least 500 feet apart, two freestanding signs shall be permitted.

(a) The size of the message area shall not exceed 40 square feet.

(b) The height of the message area shall not exceed 15 feet above the undisturbed ground.

(c) The width of the message area shall not exceed 12 feet.

(d) Setbacks.

[1] The minimum setback shall be 25 feet from a platted right-of-way and five feet from all other property boundaries.

[2] Freestanding sign setbacks may be reduced to 10 feet from a platted right-of-way if the size of the message area is reduced to 30 square feet maximum. All of the dimensional requirements, except the size of the message area and the minimum front setback, shall be required of these signs.

(e) Projecting signs, including sign structure, not to exceed six square feet in the Village Commercial District, are permitted in lieu of a freestanding sign. The sign shall be at least 10 feet above the ground; the top of the sign shall be no more than 15 feet above the ground.

(f) The Zoning Officer may approve the following: **[Amended 4-9-2019 ATM by Art. 3]**

[1] For two or more businesses located in a single building or within attached buildings and where the businesses share a common pedestrian entrance, an additional freestanding sign may be permitted for use as a directory sign, provided that the following conditions are met:

[a] The sign shall be used only to identify and locate businesses within;

[b] The message area shall not exceed 12 square feet;

[c] The height of the message area shall not exceed 20 feet above the undisturbed ground;

[d] The sign shall meet all setbacks; and

[e] The additional wall sign permitted by special exception under Subsection G(3)(c)[2] is not used.

[2] Where existing buildings are set back from the right-of-way less than the setback

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required for freestanding signs in Subsection G(2), the right-of-way setback of the freestanding sign may be reduced from 25 feet to any lesser amount down to five feet, provided that the following conditions are met:

[a] The message area shall be reduced to not more than 20 square feet;

[b] The sign shall not obstruct vehicular or pedestrian traffic;

[c] The sign shall not obstruct the line-of-sight for traffic entering or exiting the site; and

[d] The sign shall not unduly obstruct the visibility of other signs or property in the area.

(g) One appendage may be attached to a freestanding or projecting sign, and the message area of this appendage shall be considered part of the total message area of the sign. No appendage shall be permitted on supports or directional signs.

(3) Wall sign. For lots without multiple commercial tenants, each lot shall be permitted one wall sign. For lots with multiple commercial tenants, each commercial tenant shall be permitted one wall sign. All wall signs shall be located on a wall which is common to both the interior and exterior of the business identified by the sign. The height of the message area shall not exceed the greater of 20 feet from the undisturbed ground or a height equal to 75% of the total height of the building, nor shall it exceed the height of the wall to which it is attached. The message area of the wall sign shall be based on the following formulas, subject to increase by bonus granted per Subsection F(12)(c).

(a) For floor areas up to and including 50,000 square feet, the maximum message area shall be calculated as follows: 20 + (total square feet floor area X 0.0016).

(b) If the floor area of the business is greater than 50,000 square feet, the maximum wall sign message area shall be 100 square feet. A business with a floor area greater than 50,000 square feet shall be permitted one additional wall sign if it has two or more exterior public or customer entrances, excluding emergency entrances, that are at least 20 feet apart. The message area of the second wall sign shall not exceed 20 square feet.

(c) The Zoning Officer may approve the following: **[Amended 4-9-2019 ATM by Art. 3]**

[1] For a major business in a shopping center or mall that does not have wall frontage facing its primary parking lot, one additional wall sign may be permitted, provided that the following conditions are met:

[a] The size of the message area shall not exceed 40 square feet;

[b] The sign shall be located on a wall facing the primary parking lot;

[c] Total wall sign area on the wall shall not exceed 10%; and

[d] All relevant height restrictions specified in Subsection F(2) apply.

[2] For two or more businesses located in a single building or within attached buildings and where the businesses share a common pedestrian entrance, an additional wall sign may be permitted, subject to the following:

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[a] The sign shall be used only to identify and locate the businesses within;

[b] The message area shall not exceed 12 square feet;

[c] The sign shall be located immediately adjacent to the common entrance; and

[d] The additional freestanding sign permitted by special exception under Subsection G(2)(f)[1] is not used.

(4) Signs in platted ROW. Except as otherwise permitted below, no signs shall be permitted within any platted right-of-way:

(a) Special promotional banners that cross a public or private road, with a message area of 200 square feet or less, as approved by the Board of Selectmen for special events.

(b) Signs sanctioned by a municipal, state or federal signage program.

(5) Temporary event signage. In addition to signage otherwise permitted herein, temporary events may display up to 20 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

(a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;

(b) Maximum sign height shall be eight feet; and

(c) Maximum sign width shall be 10 feet.

(6) Special event signage. In addition to signage otherwise permitted herein, special events may display up to 40 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

(a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;

(b) Maximum sign height shall be eight feet; and

(c) Maximum sign width shall be 10 feet.

(7) Signs exempt from property line setbacks and no permit required:

(a) Signs with a message area of one square foot or less which bear only property numbers, post office numbers, names of occupants of the premises, other noncommercial identification, or with one of the following messages: "open"; "closed"; "vacancy"; or "no vacancy."

(b) Directional signs with a message area of four square feet or less, to indicate entrance and/or exit driveways.

(c) Business name and directional signs with a message area of three square feet or less which are located over doorways. Such signs may project from the wall surface.

(d) One portable A-frame sign per lot of record is permitted in the district. It may be displayed during business hours only, it shall have a message area of six square feet or less, no illumination of the sign is permitted, and no appendages to the sign are permitted.

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(e) Window signs with a sign area that does not exceed 50% of the window area are permitted. Window signage that exceeds 50% of the window area is prohibited.

(f) Non-illuminated sign advertising the sale or lease of the premises upon which the sign is located, with a message area of 16 square feet or less. **[Amended 5-12-2020ATM by Art. 5]**

(g) Special promotional signs for special events as approved by the Board of Selectmen with a message area of 40 square feet or less.

(h) Directional signs to help locate facilities for disabled persons, with a message area not to exceed four square feet, as required for compliance with the Americans with Disabilities Act of 1990.[16]

(i) A home occupation may display a non-illuminated outdoor sign not exceeding three square feet in size.

(8) Signs subject to property line setbacks and no permit required:

(a) Signs in parking lots to identify aisles, handicapped spaces, and reserved spaces.

(b) Signs which convey only a noncommercial message, including but not limited to ideological, political, social, cultural, or religious messages, with a message area of 12 square feet or less.

(9) Permit required for all other signs.

(a) Sign application process. Any action requiring a sign permit shall be permitted only upon the application to and approval of the Zoning Officer. Applications shall use the following process:

[1] An application form for each sign shall be completed and signed by the owner of the property.

[2] A complete application shall also include the following:

[a] Fee as set from time to time by the Board of Selectmen;

[b] Written description of the proposed type, size, height, setback, sign and supporting structure materials, and illumination of the sign;

[c] Statement specifically addressing compliance with off-site commercial sign restrictions; and

[d] Analysis regarding impact of safety, specifically addressing lighting/glare and line-of-sight blockage for vehicles and pedestrians.

[3] Upon receipt of a complete application, the Zoning Officer shall have up to 14 days to either approve or deny the application.

[4] If the application is denied, the Zoning Officer shall issue a written decision stating the reason(s) for denial.

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16. Editor's Note: See 42 U.S.C.A. § 12101 et seq.

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[5] If the application is approved, the Zoning Officer shall issue an approval for the erection of a sign. The sign permit is valid for one year from date of approval. If the sign is not erected within one year, the permit shall expire.

(10) Design standards. The following design standards shall be required to ensure compliance with the intent of these regulations:

(a) Illumination. Signs shall not be illuminated from within; signs may be illuminated only by external light. Lighting shall be affixed to and, for dimensional purposes, considered part of the sign structure. Lighting shall be located, directed and/or shielded such that it only sheds light downward and is limited to the message display area. The lighting sources shall be of white light and be energy-efficient fixtures when possible. Fixtures shall be located, directed and/or shielded such that no direct light emissions are visible at any point along the property boundary, nor shall they be distracting to vehicular traffic.

(b) Neon. Neon lighting shall be prohibited.

(c) Motion. Moving signs, or signs which give the appearance of motion, shall be prohibited.

(d) Flashing/blinking. Flashing, blinking, alternating-type or digital-type lighting such as a digital message board shall be prohibited.

(e) Structural supports and base. The support and base structure of a sign shall not exceed 50% of the maximum permitted message area of the sign. Such supports and base shall be measured on the single side or face having the greatest surface area. If the sign structural supports and base are made of wood, brick and/or stone, with only incidental use of other materials, the structure/base size limit shall be increased to 100% of the maximum permitted message area of the sign. The top of the supporting structure of a freestanding sign shall extend no farther above the top of the message area than 1/3 of the maximum permitted height of the message area.

(f) No sign shall project over a street or sidewalk, except for projecting signs as permitted herein.

(g) No sign shall be placed in such a position as to endanger vehicular or pedestrian traffic by obstructing a clear view, by causing confusion with government signs and signals, or by any other means.

(11) Movable signs. Movable signs shall be prohibited. No vehicle, including parts thereof, trailers, and other accessories, shall be used as a means of circumventing the purpose and intent of this chapter. A vehicle displaying a commercial message which is licensed, registered and inspected shall be exempt from these sign regulations if it is regularly and customarily used to transport persons or property for the business.

(12) Flags, banners, pennants, etc.

(a) In addition to the signs otherwise permitted by this chapter, there may be displayed, on any lot, up to three flags displaying any otherwise legal symbol, message or information, commercial or noncommercial; except that off-site commercial flags shall be restricted as set forth in this chapter. No such flag shall exceed 24 square feet measured by one face of the flag only. Any such flag shall be mounted directly to one flagpole. A "flagpole" is a pole intended and placed solely for the support and display of a flag or flags, and does not include utility poles, light poles, trees or other sign structures. All flagpoles shall be

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erected vertically, or within 45° of the vertical. No portion of any flagpole shall be sited within 10 feet of a property line. No flagpole shall extend more than 35 feet in height above grade or, if mounted on a building, 55 feet above the average finished grade of the building.

(b) Banners, feather flags, pennants, searchlights, twirling signs, balloons or other gas-filled figures, and other such materials shall be prohibited, except as specified herein.

(c) This subsection shall not be construed to prevent any sign otherwise permitted by this chapter, and which conforms to all sign requirements of this chapter, from taking the form of a flag or other fabric. Banners may be used to cover part or all of an existing freestanding, projecting or wall sign to advertise temporary events. The net effect of this activity shall not increase the message area of any permitted sign or signs.

(13) Maintenance. All surfaces and supporting structures of signs, whether erected prior to the effective date of this chapter or not, shall be maintained in a safe and sightly condition to the satisfaction of the Board of Selectmen or its authorized agent. A permit is required for any maintenance except the following: repainting; other surface renewal; or change of message on the same surface.

(14) Sign incentives. The purpose of these sign incentives is to reduce visual clutter and distraction from the natural environment caused by signs. This system offers design and size bonuses as a means of encouraging certain site and sign designs.

(a) Any freestanding, projecting or wall sign which conforms to all provisions of this chapter shall be permitted to utilize up to 20% of the maximum permitted message area for changeable copy.

(b) A freestanding sign which conforms to all provisions of this chapter shall be permitted to increase its message area by up to 20 square feet above that otherwise permitted under this chapter if the lot has at least 300 feet but less than 500 feet of frontage on a Class V or better road; or by up to 40 square feet above that otherwise permitted under this chapter if the lot has 500 feet or more of frontage on a Class V or better road. In no case, however, shall such increases cause any sign message area to exceed 80 square feet. The applicant shall submit a satisfactory written declaration, to be recorded at the Carroll County Registry of Deeds, in which the owner, its heirs, successors and assigns agree that, if the frontage of the property is subsequently reduced below that amount required for the bonus granted, the sign shall be removed or replaced with a sign which fully conforms with the provisions of this chapter; and that no subdivision of a lot shall be permitted unless a freestanding sign erected under this provision continues to conform to this provision; and such agreement must be legally enforceable by the Town of Conway.

(c) On a site where the freestanding sign conforms to all provisions of this chapter, the maximum wall sign message area permitted per Subsection F(3) may be increased by 50%.

H. Restrictions regarding home occupations. A home occupation is considered accessory to a residential use and shall not occupy an area greater than 50% of the total floor area of the residential unit or 1,500 square feet, whichever is less. Home occupations are subject to the following provisions and restrictions:

(1) The home occupation shall be carried on by persons who live in the principal residential unit full time. Two employees living off-premises are permitted.

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(2) The home occupation shall be carried on within the principal residential unit or an approved accessory structure.

(3) Exterior storage of commercial vehicles, equipment or materials or variation from the residential character of the principal residential unit shall not be permitted.

(4) The home occupation shall create no unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or other nuisance or threat to the health of the abutters.

(5) Adequate off-street parking shall be provided.

(6) A home occupation shall not generate excessive traffic or traffic in greater volumes than would normally be expected in a residential neighborhood.

(7) A home occupation may display a sign conforming to Subsection G(7)(m) above. **[Amended 4-11-2017 ATM by Art. 2]**

(8) A change-of-use permit to operate a home occupation is required before startup of operation.

(9) Retail or wholesale sales are only permitted for those items raised or made on the premises.

(10) A home occupation shall not be offensive to the character of the neighborhood or decrease abutting property values.

I. Farm and nursery stands. Farm and nursery stands for selling indigenous produce or plants are considered temporary structures and are permitted, provided that:

(1) Farm stands shall not exceed 1,200 square feet of gross floor area unless granted site plan review approval by the Planning Board.[17]

(2) Three off-street parking spaces shall be required to be provided for structures up to 100 square feet in size. Additional parking shall be required at the rate of one space per 200 square feet over 100 square feet.

(3) Wall signs shall not exceed 10 square feet in size. One portable A-frame sign per lot, not to exceed six square feet, shall be allowed to be displayed during business hours only.

(4) All structures, parking areas and signs shall meet the setback requirements established herein.

J. Yard sales. Yard sales shall be permitted, provided that no one household holds sales on more than six days per calendar year. **[Amended 4-11-2017 ATM by Art. 2]**

K. Travel trailers and recreational vehicles.

(1) A travel trailer or recreational vehicle may be permitted on the site of a construction project for one year, provided that it is a necessary convenience for the construction project and that no public safety or health hazards shall be created.

(2) One travel trailer or recreational vehicle may be stored on a lot, provided that it is accessory to a permitted residential use on the subject property and not utilized for dwelling purposes. Travel trailers and recreational vehicles shall not be stored on vacant lots. **[Amended 4-12-2016 ATM by Art. 3]**

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17. Editor's Note: See Ch. 110, Site Plan Review.

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L. Commercial amusements. Because the Town wishes to maintain a character which protects the long-term, high-quality environment, which will ultimately protect tourism in the valley, commercial amusements are hereby regulated to prevent adverse impacts on the Town's character and environment. All commercial amusements on a lot shall be located within an enclosed building, and the following shall apply:

(1) Commercial amusements may occupy 10% or less of the floor space of a business in any business district, by permit of the Zoning Officer and without site plan review by the Planning Board.

(2) Commercial amusements may occupy more than 10% of the floor space of a business in any business district, subject to the condition that no noise, light or other adverse impact outside the building shall be caused by the amusements or their use. Site plan review approval by the Planning Board shall be required.[18]

M. Outdoor commercial activities such as drive-up windows, remote outdoor speaker systems, interactive signs, menu boards or other similar devices with speakers, any of which operate in close proximity to residential property, constitute a nuisance due to unconfined noise and light, as well as operating hours that are not compatible with the residential environment. Commercial activities that operate drive-up windows, remote outdoor speakers, interactive signs, menu boards or other similar devices with speakers that permit customers or the general public to communicate with personnel within the commercial building or other location on the commercial property shall be at least 300 feet from the closer of the residential zone boundary or from the nearest residential property line, and if the time of operation begins before 9:00 a.m. or ends after 5:00 p.m. the separation distance shall be at least 600 feet. Substantial effective buffering against sound and light shall be provided in either case. These setbacks may be waived by the Planning Board during the site plan review process if the property abuts the Floodplain Conservation District and it can be shown that there will be no sound or light impact on residential use.

N. Sexually oriented businesses.

(1) Purpose and intent. It is the purpose of this subsection to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the Town of Conway; and it is the intent to promote the health, safety and general welfare of the citizens of the Town of Conway; and it is the intent of this subsection that the regulations be utilized to prevent problems of blight and deterioration which accompany and are brought about by the concentration of sexually oriented businesses; and the provisions of this subsection have neither the purpose nor the effect of imposing limitations or restrictions on the context of any communicative materials, including sexually oriented materials; and it is not the intent nor effect of this subsection to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market; and neither is it the intent nor the effect of this subsection to condone or legitimize the distribution of obscene material.

(2) Restrictions. Sexually oriented businesses shall only be permitted in the business districts. Sexually oriented businesses shall not be permitted within 1,000 feet of a church or place of worship, parish house or convent, a public, parochial or private school, a state-approved day-care center, residence, any establishment in which minors constitute more than 50% of the patrons, a public park, or recreation center or another sexually oriented business.

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18. Editor's Note: See Ch. 110, Site Plan Review.

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(3) Measurement of distance. The distance between any sexually oriented business and other named point of reference shall be measured in a straight line from the nearest part of the structure in which any sexually oriented business is proposed or exists to the nearest property boundary line of the lot containing any other named point of reference.

(4) Site plan approval by the Conway Planning Board shall be a prerequisite for the establishment of a sexually oriented business.[19] The Planning Board may impose reasonable restrictions relative to buffers, outdoor lighting, signs, parking, egress and ingress, pedestrian movement, landscaping, building aesthetics and measures to ensure that displays of merchandise conform with RSA Ch. 571-B.

(5) Violation of the provisions of this subsection is declared to be a public nuisance, which shall be abated by the Town of Conway by way of civil abatement procedures.

(6) Nothing in this subsection is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates any Town of Conway ordinance or statute of the State of New Hampshire regarding public nuisance, sexual conduct, lewdness, or obscene or harmful matter or the exhibition or public display thereof.

O. Outdoor dining establishments are permitted in the zoning district as an accessory to any approved restaurant use. **[Added 4-9-2024ATM by Art. 18]**

(1) An outdoor dining establishment application shall be accompanied by a plot plan, drawn to scale and dimensioned to included seating arrangements and immediately adjacent physical features such as fire hydrants, trees, structures, sidewalks, and pedestrian or vehicular travel ways. The plan shall be reviewed by the fire chief to ensure unimpeded pedestrian access. Outdoor dining areas shall be designed to maintain compliance with requirements of the American Disabilities Act (ADA).

(2) Establishments serving alcohol shall hold a valid liquor license from the State Liquor Commission prior to occupancy of the space. The license shall explicitly identify the outdoor dining area. Any permission granted by the Town of Conway will be subject to requirements of the State Liquor Commission.

(3) Outdoor dining areas must be maintained. A minimum of one trash receptacle shall be provided and identified on the plot plan. Plantings, barriers, and outdoor furniture shall be maintained and suitable for the intended purpose.

(4) Outdoor dining areas shall be separated from vehicular and pedestrian traffic. The separation must be adequate to ensure public safety; the minimum height of the barrier shall be 36 inches and the maximum height shall be 48 inches. Where no curbing or adequate vehicular separation exists, concreate or similar barriers shall be installed to prevent vehicular passage.

(5) Outdoor entertainment associated with the dining area must not be considered a nuisance as defined in site plan regulations, § 110-39 and shall adhere to § 97-6A, Noise restrictions.

(6) Occupancy limits shall be established by the Fire Chief. Applications must indicate that adequate parking can be provided as per site plan regulations, § 110-21.

(7) Dining areas and associated equipment are subject to all applicable setbacks.

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19. Editor's Note: See Ch. 110, Site Plan Review.

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(8) Restroom facilities shall be readily accessible.

(9) Outdoor dining applications may be reviewed as a small undertaking as per site plan regulations, § 110-4. Site plan review is required for any proposal which reduces total site greenspace to less than 30%, proposes a reduction of greenspace of greater than 2,000 square feet, or increases structural floor area by greater than 25% or 1,000 square feet, whichever is more restrictive.

P. Special exceptions. The following land use shall be allowed if granted a special exception by the Zoning Board of Adjustment:

(1) Helicopters. A special exception may be granted for helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term nature. No approval for a special exception shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to Town residents and their property.

§ 190-18. Conway Village Commercial (CVC) District.

The CVC District is primarily designed to accommodate a compatible mixture of uses that complement commercial and residential uses typically associated with village centers. This district is serviced by municipal water and sewer and can accommodate development at higher densities. Uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries.

(1) The CVC District shall have the following bounds (Map and Parcel numbers refer to 2003 Town of Conway Tax Maps):

Commencing at a point on the southern shore of the Saco River being the northeast corner of Map 265, Parcel 165; thence southerly along the eastern boundary of Map 265, Parcels 165, 170 and 171 to the northern boundary of Map 265, Parcel 173; thence easterly to the northeast corner of Map 265, Parcel 173; thence southerly along the eastern boundary of Map 265, Parcel 173 and continuing in a straight line to the center line of Route 113 (East Main Street); thence westerly along the center line of Route 113 (East Main Street) to the intersection of the center line of Wilder Street;

thence southerly along the center line of Wilder Street to the intersection of the center line of Greenwood Avenue; thence westerly along the center line of Greenwood Avenue to the intersection of the center line of Route 153 (Pleasant Street); thence southerly along the center line of Route 153 (Pleasant Street) to a point adjacent to the northeast corner of Map 276, Parcel 273; thence through the southeast corner of Map 276, Parcel 277 and continuing easterly and southerly along the southern boundary of Map 276, Parcel 277 to the eastern shore of Page Randall Brook;

thence northerly along the eastern shore of Page Randall Brook to the southern boundary of the Route 16 (Main Street) ROW; thence westerly along the southern boundary of the Route 16 (Main Street) ROW to the northeast corner of Map 276, Parcel 280 on the northern shore of Pequawket Pond; thence southwesterly along the shore of Pequawket Pond to the southwest corner of Map 277, Parcel 135; thence northwesterly along the western boundary of Map 277, Parcel 135 to the southern boundary of the West Main Street ROW; thence southwesterly along the southern boundary of the West Main Street ROW to the intersection of the center line of

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Hobbs Street;

thence southerly along the center line of Hobbs Street to a point adjacent to the southeast corner of Map 277, Parcel 189; thence westerly through the southeast corner of Map 277, Parcel 189 along the southern boundary of Map 277, Parcels 189 and 190 to the southwest corner of Map 277, Parcel 190; thence northerly along the western boundary of Map 277, Parcel 190 to the southern boundary of the West Main Street ROW; thence southwesterly along the southern boundary of the West Main Street ROW to the northeast corner of Map 277, Parcel 192; thence southerly along the eastern boundary of Map 277, Parcel 192 to a point 400 feet from the center line of West Main Street; thence westerly maintaining a four-hundred-foot distance from the center line of West Main Street to the shore of Pequawket Pond;

thence westerly along the shore of Pequawket Pond to the southwest corner of Map 277, Parcel 211; thence northwesterly along the western boundary of Map 277, Parcel 211 and continuing in a straight line to the center line of the Conway Scenic Railroad; thence easterly along the center line of the Conway Scenic Railroad to a point 400 feet north of the center line of the Route 16 (Main Street) ROW; thence easterly maintaining a four-hundred-foot distance from the center line of the Route 16 (Main Street) ROW to the eastern boundary of Map 265, Parcel 45; thence southerly along the eastern boundary of Map 265, Parcel 45 to the northwest corner of Map 265, Parcel 47; thence easterly along the northern boundary of Map 265, Parcels 47 and 50 and continuing in a straight line to the center line of Washington Street;

thence northerly along the center line of Washington Street to a point adjacent to the northwest corner of Map 265, Parcel 135; thence in a straight line through the northwest corner of Map 265, Parcel 135 and along the northern boundary of Map 265, Parcel 135 to the western boundary of Map 265, Parcel 146; thence northerly to the northwest corner of Map 265, Parcel 146; thence easterly along the northern boundary of Map 265, Parcel 146 to the southern shore of the Saco River, and thence along the southern shore of the Saco River to the point of commencement.

(2) District map. The CVC District Map is included as an attachment to this chapter.

B. Lot size and density.

(1) Lots serviced by a municipal water system and municipal sewerage system shall have at least 1/2 acre for the first unit that may be located thereon and at least 10,000 square feet for each additional unit on the same lot.

(2) Lots serviced by a municipal water system shall have at least 1/2 acre for each unit that may be located thereon.

(3) The minimum lot size for keeping domestic farm animals shall be one acre.

(4) All other lots shall have at least one acre for each unit that may be located thereon.

(5) Special exceptions.

(a) In order to preserve and safeguard Conway's older homes, but also allow for their conversion to multifamily dwellings, the Zoning Board of Adjustment may grant special exceptions for residential structures and accessory structures on the same lot, provided that: **[Amended 4-10-2018 ATM by Art. 2; 4-9-2019 ATM by Art. 5]**

[1] Substantially all of the structure was constructed prior to 1930.

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[2] The total number of dwelling units on the site does not exceed four. **[Amended 5-12-2020ATM by Art. 4]**

[3] No less than 5,000 square feet of land area must be provided on the parcel for each unit that exists or is to be constructed thereon.

[4] No significant changes to the exterior lines of the building or exterior architectural detail are made which would diminish the historical appearance of the structure.

[5] Adequate area is available for parking outside the setback and buffer areas.

[6] Accessory structures must have at least 300 square feet of occupiable space per unit suitable for conversion. **[Amended 5-12-2020ATM by Art. 4[20]]**

[7] All of the dwelling units shall be used for long-term residency; short-term transient occupancies of less than 30 consecutive days of any dwelling unit is prohibited. **[Added 5-12-2020 ATM by Art. 4]**

[8] Scaled floor plans and a scaled site drawing must be submitted to the Zoning Board of Adjustment at the time of application to ensure compliance with the requirements for this special exception. **[Added 5-12-2020 ATM by Art. 4]**

(b) In order to help provide year-round housing, one accessory dwelling unit shall be permitted without a special exception and by right by the Building Inspector as an accessory to a single-family dwelling on any size lot, subject to the enumerated conditions below. **[Amended 4-9-2019 ATM by Art. 2; 4-13-2021 ATM by Art. 5; 4-9-2024ATM by Art. 21]**

The Zoning Board of Adjustment may grant a special exception for a second accessory dwelling unit as an accessory use to a single-family dwelling, or one accessory dwelling unit as an accessory use to a duplex, on any size lot, subject to the following conditions:

[1] The accessory dwelling unit is designed to ensure architectural compatibility with the neighborhood.

[2] Sufficient parking is located on site with a minimum of one space per accessory dwelling unit.

[3] The accessory dwelling unit is subject to all other applicable zoning regulations including setbacks, elevations, and overlay district restrictions.

[4] The primary single-family dwelling, duplex, and accessory dwelling units, as applicable shall be used for long-term residency, and short-term transient occupancy of any dwelling unit is prohibited. The applicable occupancy restrictions shall be recorded at the Carroll County Registry of Deeds.

[5] A second accessory dwelling unit associated with a single-family dwelling and the sole accessory dwelling unit associated with a duplex shall be reserved as an affordable unit for an eligible renter as defined in § 195-8 of the Town of Conway

20. Editor's Note: This article also repealed former Subsection B(5)(a)[6], requiring an approved sewerage disposal system, and [7], requiring submission of architectural design plans and a to-scale sketch, and renumbered former Subsection B(5)(a)[8] as Subsection B(5)(a)[6].

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Zoning Ordinance. The applicable affordability restrictions shall be recorded at the Carroll County Registry of Deeds.

[6] Adequate water supply and sewage disposal for an accessory dwelling unit shall be provided in accordance with RSA 485-A:38.

[7] Site plan approval shall not be required or be a condition to the Zoning Board of Adjustment granting a special exception under this subsection.

(c) The Zoning Board of Adjustment may grant a special exception for up to 12 dwelling units per acre in the Village Commercial and Highway Commercial Districts under the following conditions:

[1] That each structure must contain at least three dwelling units.

[2] Not less than 25% of all dwelling units shall be designated as full-time rental apartments. At the time of Planning Board approval, the units designated as full-time rental apartments must be shown on the plan with a condition that they are leased for 20 years from the date of Planning Board approval by the developer, and a deed restriction shall be recorded in the Registry of Deeds as evidence of the same.

[3] All lots must be serviced by municipal water and sewerage.

[4] Rental/Deed-restricted units shall be a maximum of 1,000 square feet and a minimum of 300 square feet.

[5] Architectural design plans must be submitted to the Zoning Board of Adjustment at the time of application to ensure compliance with the zoning regulations.

C. Frontage. All lots must front on a state or Town highway with a Class I, II, III, IV or V classification, a private road constructed to Town standards as required by the Planning Board or a Class VI road proposed to be improved as stipulated by the Planning Board. To qualify as frontage, the lot must have access rights to the subject highway or road. The minimum distance for frontage on a road shall be:

(1) Fifty feet.

(2) One hundred feet for lots which front entirely on cul-de-sacs which meet the design requirements set forth in Chapter 130, Subdivision of Land, Article X, Detail #4, and approved by the Planning Board.

D. Setbacks. The minimum front setback shall be 5 feet and the minimum side or back setback shall be 10 feet.

E. Structure and building height. Structure height is restricted to achieve several purposes. The Town is economically dependent upon tourism and attracts visitors with its rural character and mountainous setting. Maintaining the traditional scale and style of structures aids in preserving the character of the Town. Peaked roofs are encouraged because it is the traditional roof style in the Town. (Care has been taken to prepare language which does not unduly encourage the use of flat-roof buildings.) The height restriction keeps structures and buildings below treetop level, which is typically from 60 feet to 100 feet for mature maple, beech, birch and pine trees. Structure height below treetop level helps maintain the rural atmosphere and preserve the viewsheds throughout the Town. In addition, the height limit minimizes difficulty in providing fire protection. The following shall apply throughout the Town:

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(1) Structure height shall not exceed 40 feet for any structure, except wind energy systems permitted in accordance with Chapter 179 of the Conway Code. **[Amended 4-11-2017 ATM by Art. 2; 4-12-2022ATM by Art. 3]**

(2) Building height shall not exceed 30 feet. **[Amended 4-12-2022ATM by Art. 3]**

(3) Church steeples may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:

(a) The space enclosed in the steeple is not usable floor space other than for the maintenance and structural purposes of the steeple.

(b) The height of the steeple is appropriate to the design and size of the church.

F. Signs. **[Amended 4-14-2015 ATM by Arts. 2, 3 and 4; 4-12-2016 ATM by Arts. 2 and 4; 4-11-2017 ATM by Art. 2; 4-10-2018 ATM by Art. 3]**

(1) Sign content. The Town has no intention of restricting individual free speech, but the Town does recognize its right to place reasonable restrictions upon commercial speech. Further, the Town wishes to prevent excessive or unnecessary signage along road corridors. In keeping with this reasoning, off-site commercial signs shall be prohibited.

(2) Freestanding sign. There shall be no more than one freestanding sign per lot, except that where a lot fronts on two or more public rights-of-way and has two entrances at least 500 feet apart, two freestanding signs shall be permitted.

(a) The size of the message area shall not exceed 40 square feet.

(b) The height of the message area shall not exceed 15 feet above the undisturbed ground.

(c) The width of the message area shall not exceed 12 feet.

(d) Setbacks.

[1] The minimum setback shall be 25 feet from a platted right-of-way and five feet from all other property boundaries.

[2] Freestanding sign setbacks may be reduced to 10 feet from a platted right-of-way if the size of the message area is reduced to 30 square feet maximum. All of the dimensional requirements, except the size of the message area and the minimum front setback, shall be required of these signs.

(e) Projecting signs, including sign structure, not to exceed six square feet in the Village Commercial District, are permitted in lieu of a freestanding sign. The sign shall be at least 10 feet above the ground; the top of the sign shall be no more than 15 feet above the ground.

(f) The Zoning Officer may approve the following: **[Amended 4-9-2019 ATM by Art. 3]**

[1] For two or more businesses located in a single building or within attached buildings and where the businesses share a common pedestrian entrance, an additional freestanding sign may be permitted for use as a directory sign, provided that the following conditions are met:

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[a] The sign shall be used only to identify and locate businesses within;

[b] The message area shall not exceed 12 square feet;

[c] The height of the message area shall not exceed 20 feet above the undisturbed ground;

[d] The sign shall meet all setbacks; and

[e] The additional wall sign permitted by special exception under Subsection F(3)(c)[2] is not used.

[2] Where existing buildings are set back from the right-of-way less than the setback required for freestanding signs in Subsection F(1), the right-of-way setback of the freestanding sign may be reduced from 25 feet to any lesser amount down to five feet, provided that the following conditions are met:

[a] The message area shall be reduced to not more than 20 square feet;

[b] The sign shall not obstruct vehicular or pedestrian traffic;

[c] The sign shall not obstruct the line-of-sight for traffic entering or exiting the site; and

[d] The sign shall not unduly obstruct the visibility of other signs or property in the area.

(g) One appendage may be attached to a freestanding or projecting sign, and the message area of this appendage shall be considered part of the total message area of the sign. No appendage shall be permitted on supports or directional signs.

(3) Wall sign. For lots without multiple commercial tenants, each lot shall be permitted one wall sign. For lots with multiple commercial tenants, each commercial tenant shall be permitted one wall sign. All wall signs shall be located on a wall which is common to both the interior and exterior of the business identified by the sign. The height of the message area shall not exceed the greater of 20 feet from the undisturbed ground or a height equal to 75% of the total height of the building, nor shall it exceed the height of the wall to which it is attached. The message area of the wall sign shall be based on the following formulas, subject to increase by bonus granted per Subsection F(12)(c).

(a) For floor areas up to and including 50,000 square feet, the maximum message area shall be calculated as follows: 20 + (total square feet floor area X 0.0016).

(b) If the floor area of the business is greater than 50,000 square feet, the maximum wall sign message area shall be 100 square feet. A business with a floor area greater than 50,000 square feet shall be permitted one additional wall sign if it has two or more exterior public or customer entrances, excluding emergency entrances, that are at least 20 feet apart. The message area of the second wall sign shall not exceed 20 square feet.

(c) The Zoning Officer may approve the following: **[Amended 4-9-2019 ATM by Art. 3]**

[1] For a major business in a shopping center or mall that does not have wall frontage facing its primary parking lot, one additional wall sign may be permitted, provided that the following conditions are met:

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[a] The size of the message area shall not exceed 40 square feet;

[b] The sign shall be located on a wall facing the primary parking lot;

[c] Total wall sign area on the wall shall not exceed 10%; and

[d] All relevant height restrictions specified in Subsection F(2) apply.

[2] For two or more businesses located in a single building or within attached buildings and where the businesses share a common pedestrian entrance, an additional wall sign may be permitted, subject to the following:

[a] The sign shall be used only to identify and locate the businesses within;

[b] The message area shall not exceed 12 square feet;

[c] The sign shall be located immediately adjacent to the common entrance; and

[d] The additional freestanding sign permitted by special exception under Subsection F(2)(f)[1] is not used.

(4) Signs in platted ROW. Except as otherwise permitted below, no signs shall be permitted within any platted right-of-way:

(a) Special promotional banners that cross a public or private road, with a message area of 200 square feet or less, as approved by the Board of Selectmen for special events.

(b) Signs sanctioned by a municipal, state or federal signage program.

(5) Temporary event signage. In addition to signage otherwise permitted herein, temporary events may display up to 20 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

(a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;

(b) Maximum sign height shall be eight feet; and

(c) Maximum sign width shall be 10 feet.

(6) Special event signage. In addition to signage otherwise permitted herein, special events may display up to 40 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

(a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;

(b) Maximum sign height shall be eight feet; and

(c) Maximum sign width shall be 10 feet.

(7) Signs exempt from property line setbacks and no permit required:

(a) Signs with a message area of one square foot or less which bear only property numbers, post office numbers, names of occupants of the premises, other noncommercial identification, or with one of the following messages: "open"; "closed"; "vacancy"; or "no

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vacancy."

(b) Directional signs with a message area of four square feet or less, to indicate entrance and/or exit driveways.

(c) Business name and directional signs with a message area of three square feet or less which are located over doorways. Such signs may project from the wall surface.

(d) One portable A-frame sign per lot of record is permitted in the district. It may be displayed during business hours only, it shall have a message area of six square feet or less, no illumination of the sign is permitted, and no appendages to the sign are permitted.

(e) Window signs with a sign area that does not exceed 50% of the window area are permitted. Window signage that exceeds 50% of the window area is prohibited.

(f) Non-illuminated sign advertising the sale or lease of the premises upon which the sign is located, with a message area of 16 square feet or less. **[Amended 5-12-2020ATM by Art. 5]**

(g) Special promotional signs for special events as approved by the Board of Selectmen with a message area of 40 square feet or less.

(h) Directional signs to help locate facilities for disabled persons, with a message area not to exceed four square feet, as required for compliance with the Americans with Disabilities Act of 1990.[21]

(i) A home occupation may display a non-illuminated outdoor sign not exceeding three square feet in size.

(8) Signs subject to property line setbacks and no permit required:

(a) Signs in parking lots to identify aisles, handicapped spaces, and reserved spaces.

(b) Signs which convey only a noncommercial message, including but not limited to ideological, political, social, cultural, or religious messages, with a message area of 12 square feet or less.

(9) Permit required for all other signs.

(a) Sign application process. Any action requiring a sign permit shall be permitted only upon the application to and approval of the Zoning Officer. Applications shall use the following process:

[1] An application form for each sign shall be completed and signed by the owner of the property.

[2] A complete application shall also include the following:

[a] Fee as set from time to time by the Board of Selectmen;

[b] Written description of the proposed type, size, height, setback, sign and supporting structure materials, and illumination of the sign;

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21. Editor's Note: See 42 U.S.C.A. § 12101 et seq.

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[c] Statement specifically addressing compliance with off-site commercial sign restrictions; and

[d] Analysis regarding impact of safety, specifically addressing lighting/glare and line-of-sight blockage for vehicles and pedestrians.

[3] Upon receipt of a complete application, the Zoning Officer shall have up to 14 days to either approve or deny the application.

[4] If the application is denied, the Zoning Officer shall issue a written decision stating the reason(s) for denial.

[5] If the application is approved, the Zoning Officer shall issue an approval for the erection of a sign. The sign permit is valid for one year from date of approval. If the sign is not erected within one year, the permit shall expire.

(10) Design standards. The following design standards shall be required to ensure compliance with the intent of these regulations:

(a) Illumination. Signs shall not be illuminated from within; signs may be illuminated only by external light. Lighting shall be affixed to and, for dimensional purposes, considered part of the sign structure. Lighting shall be located, directed and/or shielded such that it only sheds light downward and is limited to the message display area. The lighting sources shall be of white light and be energy-efficient fixtures when possible. Fixtures shall be located, directed and/or shielded such that no direct light emissions are visible at any point along the property boundary, nor shall they be distracting to vehicular traffic.

(b) Neon. Neon lighting shall be prohibited.

(c) Motion. Moving signs, or signs which give the appearance of motion, shall be prohibited.

(d) Flashing/blinking. Flashing, blinking, alternating-type or digital-type lighting such as a digital message board shall be prohibited.

(e) Structural supports and base. The support and base structure of a sign shall not exceed 50% of the maximum permitted message area of the sign. Such supports and base shall be measured on the single side or face having the greatest surface area. If the sign structural supports and base are made of wood, brick and/or stone, with only incidental use of other materials, the structure/base size limit shall be increased to 100% of the maximum permitted message area of the sign. The top of the supporting structure of a freestanding sign shall extend no farther above the top of the message area than 1/3 of the maximum permitted height of the message area.

(f) No sign shall project over a street or sidewalk, except for projecting signs as permitted herein.

(g) No sign shall be placed in such a position as to endanger vehicular or pedestrian traffic by obstructing a clear view, by causing confusion with government signs and signals, or by any other means.

(11) Movable signs. Movable signs shall be prohibited. No vehicle, including parts thereof, trailers, and other accessories, shall be used as a means of circumventing the purpose and intent of this chapter. A vehicle displaying a commercial message which is licensed, registered and inspected

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shall be exempt from these sign regulations if it is regularly and customarily used to transport persons or property for the business.

(12) Flags, banners, pennants, etc.

(a) In addition to the signs otherwise permitted by this chapter, there may be displayed, on any lot, up to three flags displaying any otherwise legal symbol, message or information, commercial or noncommercial; except that off-site commercial flags shall be restricted as set forth in this chapter. No such flag shall exceed 24 square feet measured by one face of the flag only. Any such flag shall be mounted directly to one flagpole. A "flagpole" is a pole intended and placed solely for the support and display of a flag or flags, and does not include utility poles, light poles, trees or other sign structures. All flagpoles shall be erected vertically, or within 45° of the vertical. No portion of any flagpole shall be sited within 10 feet of a property line. No flagpole shall extend more than 35 feet in height above grade or, if mounted on a building, 55 feet above the average finished grade of the building.

(b) Banners, feather flags, pennants, searchlights, twirling signs, balloons or other gas-filled figures, and other such materials shall be prohibited, except as specified herein.

(c) This subsection shall not be construed to prevent any sign otherwise permitted by this chapter, and which conforms to all sign requirements of this chapter, from taking the form of a flag or other fabric. Banners may be used to cover part or all of an existing freestanding, projecting or wall sign to advertise temporary events. The net effect of this activity shall not increase the message area of any permitted sign or signs.

(13) Maintenance. All surfaces and supporting structures of signs, whether erected prior to the effective date of this chapter or not, shall be maintained in a safe and sightly condition to the satisfaction of the Board of Selectmen or its authorized agent. A permit is required for any maintenance except the following: repainting; other surface renewal; or change of message on the same surface.

(14) Sign incentives. The purpose of these sign incentives is to reduce visual clutter and distraction from the natural environment caused by signs. This system offers design and size bonuses as a means of encouraging certain site and sign designs.

(a) Any freestanding, projecting or wall sign which conforms to all provisions of this chapter shall be permitted to utilize up to 20% of the maximum permitted message area for changeable copy.

(b) A freestanding sign which conforms to all provisions of this chapter shall be permitted to increase its message area by up to 20 square feet above that otherwise permitted under this chapter if the lot has at least 300 feet but less than 500 feet of frontage on a Class V or better road; or by up to 40 square feet above that otherwise permitted under this chapter if the lot has 500 feet or more of frontage on a Class V or better road. In no case, however, shall such increases cause any sign message area to exceed 80 square feet. The applicant shall submit a satisfactory written declaration, to be recorded at the Carroll County Registry of Deeds, in which the owner, its heirs, successors and assigns agree that, if the frontage of the property is subsequently reduced below that amount required for the bonus granted, the sign shall be removed or replaced with a sign which fully conforms with the provisions of this chapter; and that no subdivision of a lot shall be permitted unless a freestanding sign erected under this provision continues to conform to this provision; and

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such agreement must be legally enforceable by the Town of Conway.

(c) On a site where the freestanding sign conforms to all provisions of this chapter, the maximum wall sign message area permitted per Subsection F(3) may be increased by 50%.

G. Restrictions regarding home occupations. A home occupation is considered accessory to a residential use and shall not occupy an area greater than 50% of the total floor area of the residential unit or 1,500 square feet, whichever is less. Home occupations are subject to the following provisions and restrictions:

(1) The home occupation shall be carried on by persons who live in the principal residential unit full time. Two employees living off-premises are permitted.

(2) The home occupation shall be carried on within the principal residential unit or an approved accessory structure.

(3) Exterior storage of commercial vehicles, equipment or materials or variation from the residential character of the principal residential unit shall not be permitted.

(4) The home occupation shall create no unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or other nuisance or threat to the health of the abutters.

(5) Adequate off-street parking shall be provided.

(6) A home occupation shall not generate excessive traffic or traffic in greater volumes than would normally be expected in a residential neighborhood.

(7) A home occupation may display a sign conforming to Subsection F(7)(m) above. **[Amended 4-11-2017 ATM by Art. 2]**

(8) A change-of-use permit to operate a home occupation is required before startup of operation.

(9) Retail or wholesale sales are only permitted for those items raised or made on the premises.

(10) A home occupation shall not be offensive to the character of the neighborhood or decrease abutting property values.

H. Farm and nursery stands. Farm and nursery stands for selling indigenous produce or plants are considered temporary structures and are permitted, provided that:

(1) Farm stands shall not exceed 1,200 square feet of gross floor area unless granted site plan review approval by the Planning Board.[22]

(2) Three off-street parking spaces shall be required to be provided for structures up to 100 square feet in size. Additional parking shall be required at the rate of one space per 200 square feet over 100 square feet.

(3) Wall signs shall not exceed 10 square feet in size. One portable A-frame sign per lot, not to exceed six square feet, shall be allowed to be displayed during business hours only.

(4) All structures, parking areas and signs shall meet the setback requirements established herein.

I. Yard sales. Yard sales shall be permitted, provided that no one household holds sales on more than

22. Editor's Note: See Ch. 110, Site Plan Review.

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six days per calendar year.[23] **[Amended 4-11-2017 ATM by Art. 2]**

J. Commercial amusements. Because the Town wishes to maintain a character which protects the long-term, high-quality environment, which will ultimately protect tourism in the valley, commercial amusements are hereby regulated to prevent adverse impacts on the Town's character and environment. All commercial amusements on a lot shall be located within an enclosed building, and the following shall apply:

(1) Commercial amusements may occupy 10% or less of the floor space of a business in any business district, by permit of the Zoning Officer and without site plan review by the Planning Board.

(2) Commercial amusements may occupy more than 10% of the floor space of a business in any business district, subject to the condition that no noise, light or other adverse impact outside the building shall be caused by the amusements or their use. Site plan review approval by the Planning Board shall be required.[24]

K. Outdoor commercial activities such as drive-up windows, remote outdoor speaker systems, interactive signs, menu boards or other similar devices with speakers, any of which operate in close proximity to residential property, constitute a nuisance due to unconfined noise and light, as well as operating hours that are not compatible with the residential environment.

(1) Commercial activities that operate drive-up windows, remote outdoor speakers, interactive signs, menu boards or other similar devices with speakers that permit customers or the general public to communicate with personnel within the commercial building or other location on the commercial property shall be at least 300 feet from the closer of the residential zone boundary or from the nearest residential property line, and if the time of operation begins before 9:00 a.m. or ends after 5:00 p.m. the separation distance shall be at least 600 feet. Substantial effective buffering against sound and light shall be provided in either case. These setbacks may be waived by the Planning Board during the site plan review process if the property abuts the Floodplain Conservation District and it can be shown that there will be no sound or light impact on residential use.

L. Sexually oriented businesses.

(1) Purpose and intent. It is the purpose of this subsection to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the Town of Conway; and it is the intent to promote the health, safety and general welfare of the citizens of the Town of Conway; and it is the intent of this subsection that the regulations be utilized to prevent problems of blight and deterioration which accompany and are brought about by the concentration of sexually oriented businesses; and the provisions of this subsection have neither the purpose nor the effect of imposing limitations or restrictions on the context of any communicative materials, including sexually oriented materials; and it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market; and neither is it the intent nor the effect of this subsection to condone or legitimize the distribution of obscene material.

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23. Editor's Note: Original Subsection 147.13.6.11, Travel trailers and recreational vehicles, which immediately followed this subsection, was repealed 4-11-2017 ATM by Art. 2.

24. Editor's Note: See Ch. 110, Site Plan Review.

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(2) Restrictions. Sexually oriented businesses shall only be permitted in the business districts. Sexually oriented businesses shall not be permitted within 1,000 feet of a church or place of worship, parish house or convent, a public, parochial or private school, a state-approved day-care center, residence, any establishment in which minors constitute more than 50% of the patrons, a public park, or recreation center or another sexually oriented business.

(3) Measure of distance. The distance between any sexually oriented business and other named point of reference shall be measured in a straight line from the nearest part of the structure in which any sexually oriented business is proposed or exists to the nearest property boundary line of the lot containing any other named point of reference.

(4) Site plan approval by the Conway Planning Board shall be a prerequisite for the establishment of a sexually oriented business. The Planning Board may impose reasonable restrictions relative to buffers, outdoor lighting, signs, parking, egress and ingress, pedestrian movement, landscaping, building aesthetics and measures to ensure that displays of merchandise conform with RSA Ch. 571-B.

(5) Violation of the provisions of this subsection is declared to be a public nuisance, which shall be abated by the Town of Conway by way of civil abatement procedures.

(6) Nothing in this subsection is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates any Town of Conway ordinance or statute of the State of New Hampshire regarding public nuisance, sexual conduct, lewdness, or obscene or harmful matter or the exhibition or public display thereof.

M. Mobile homes, travel trailers and recreational vehicles. One mobile home used as a residential unit is permitted on a lot in the district. **[Amended 4-12-2016 ATM by Art. 3; 4-11-2017 ATM by Art. 2]**

(1) A mobile home, travel trailer or recreational vehicle may be permitted on the site of a construction project for one year, provided that it is a necessary convenience for the construction project and that no public safety or health hazards shall be created.

(2) One travel trailer or recreational vehicle may be stored on a lot, provided that it is accessory to a permitted residential use on the subject property and not utilized for dwelling purposes. Travel trailers and recreational vehicles shall not be stored on vacant lots.

(3) All mobile homes permitted under this subsection must be connected to a sewerage system and water source, both meeting minimum local and State of New Hampshire standards, as applicable and then promulgated; such systems shall be approved by the Selectmen or their designated agent and be maintained so as not to cause a health or sanitation hazard.

N. Mobile home parks are allowed in the CVC District, provided that they meet the following minimum requirements:

(1) A mobile home park shall contain a minimum of 10 acres and shall have a minimum frontage of 60 feet on or a sixty-foot right-of-way to a public street.

(2) There shall be at least 10 mobile home spaces available at first occupancy.

(3) A minimum of 10,000 square feet shall be provided for each mobile home space.

(4) Each mobile home shall be provided with a mobile home stand, surfaced with a material providing suitable stability to bear the weight of a mobile home at all times of the year and

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having adequate gradient or crown to provide for proper surface drainage.

(5) All State of New Hampshire requirements for mobile home parks shall be met.

(6) All mobile homes permitted under this subsection must be connected to a sewerage system and water source, both meeting minimum local and State of New Hampshire standards, as applicable and then promulgated; such systems shall be approved by the Selectmen or their designated agent and be maintained so as not to cause a health or sanitation hazard.

O. Outdoor dining establishments are permitted in the zoning district as an accessory to any approved restaurant use. **[Added 4-9-2024ATM by Art. 18]**

(1) An outdoor dining establishment application shall be accompanied by a plot plan, drawn to scale and dimensioned to included seating arrangements and immediately adjacent physical features such as fire hydrants, trees, structures, sidewalks, and pedestrian or vehicular travel ways. The plan shall be reviewed by the fire chief to ensure unimpeded pedestrian access. Outdoor dining areas shall be designed to maintain compliance with requirements of the American Disabilities Act (ADA).

(2) Establishments serving alcohol shall hold a valid liquor license from the State Liquor Commission prior to occupancy of the space. The license shall explicitly identify the outdoor dining area. Any permission granted by the Town of Conway will be subject to requirements of the State Liquor Commission.

(3) Outdoor dining areas must be maintained. A minimum of one trash receptacle shall be provided and identified on the plot plan. Plantings, barriers, and outdoor furniture shall be maintained and suitable for the intended purpose.

(4) Outdoor dining areas shall be separated from vehicular and pedestrian traffic. The separation must be adequate to ensure public safety; the minimum height of the barrier shall be 36 inches and the maximum height shall be 48 inches. Where no curbing or adequate vehicular separation exists, concreate or similar barriers shall be installed to prevent vehicular passage.

(5) Outdoor entertainment associated with the dining area must not be considered a nuisance as defined in site plan regulations, § 110-39 and shall adhere to § 97-6A, Noise restrictions.

(6) Occupancy limits shall be established by the Fire Chief. Applications must indicate that adequate parking can be provided as per site plan regulations, § 110-21.

(7) Dining areas and associated equipment are subject to all applicable setbacks.

(8) Restroom facilities shall be readily accessible.

(9) Outdoor dining applications may be reviewed as a small undertaking as per site plan regulations, § 110-4. Site plan review is required for any proposal which reduces total site greenspace to less than 30%, proposes a reduction of greenspace of greater than 2,000 square feet, or increases structural floor area by greater than 25% or 1,000 square feet, whichever is more restrictive.

P. Special exceptions. The following land uses shall be allowed if granted a special exception by the Zoning Board of Adjustment:

(1) Mobile homes. The Zoning Board of Adjustment may grant a special exception for a mobile home on a lot on which a single-family residential structure exists if the following conditions are met:

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(a) The mobile home shall be occupied only as the usual residence of the immediate family, including grandparents, parents and children, of the owner and/or spouse of the primary single-family residential structure on the lot, and the lot shall be at least one acre if served by municipal water and sewerage and at least two acres in all other cases; or the mobile home shall be occupied as the usual residence of a full-time agricultural employee and his immediate family, and the single-family residence shall be part of an owner-operated farm of 25 acres or more.

(b) The special exception shall terminate on a change of ownership or occupancy of either the mobile home or the primary residential structure.

(c) A permit shall be obtained from the Selectmen or their agent, which shall be renewed yearly to ensure compliance with the above conditions.

(2) Helicopters. A special exception may be granted for helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term nature. No approval for a special exception shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to Town residents and their property.

§ 190-19. North Conway Village Commercial (NCVC) District.

The NCVC District is primarily designed to accommodate a compatible mixture of uses that complement commercial and residential uses typically associated with village centers. This district is serviced by municipal water and sewer and can accommodate development at higher densities. Uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries.

(1) The NCVC District shall have the following bounds (Map and Parcel numbers refer to 2003 Town of Conway Tax Maps):

Commencing at the northeast corner of Map 215, Parcel 88; thence southerly along the eastern boundary of Map 215, Parcel 88 to the southeast corner of Map 215, Parcel 88; thence southerly in a straight line to the northeast corner of Map 215, Parcel 97; thence southerly along the eastern boundary of Map 215, Parcel 97 and Map 218, Parcel 68 to the northeast corner of Map 218, Parcel 69;

thence southeasterly along the eastern boundary of Map 218, Parcel 69 to the northwest corner of Map 218, Parcel 70; thence easterly along the northern boundary of Map 218, Parcel 70 to the northeast corner of Map 218, Parcel 70; thence southerly along the eastern boundary of Map 218, Parcel 70 to the southeast corner of Map 218, Parcel 70; thence easterly along the northern boundary of Map 218, Parcels 77 and 79 to the northeast corner of Map 218, Parcel 79; thence easterly in a straight line to the northwest corner of Map 218, Parcel 87; thence easterly along the northern boundary of Map 218, Parcels 87 and 88 and continuing in a straight line to the center line of Map 202, Parcel 150 (former Main Central Railroad ROW);

thence southerly along the center line of Map 202, Parcel 150 (former Main Central Railroad ROW) and continuing along to the center line of the North-South Road to the thread of the Kearsarge Brook; then southwesterly along the thread of the Kearsarge Brook to the western boundary of Map 218, Parcel 35 (Conway Scenic Railroad); thence northerly along the one-

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hundred-year floodplain to the thread of Randall Brook;

thence northerly along the thread of Randall Brook to a point 300 feet north of the center line of Route 16; thence southeasterly maintaining a three-hundred-foot distance from the center line of Route 16 to the southern boundary of Map 215, Parcel 84; thence easterly and southerly along the southern boundary of Map 215, Parcel 84 to the northwest corner of Map 215, Parcel 88, and thence easterly along the northern boundary of Map 215, Parcel 88 to the point of commencement.

(2) District map. The NCVC District Map is included as an attachment to this chapter.

B. Lot size and density.

(1) Lots serviced by a municipal water system and municipal sewerage system shall have at least 1/2 acre for the first unit that may be located thereon and at least 10,000 square feet for each additional unit on the same lot.

(2) Lots serviced by a municipal water system shall have at least 1/2 acre for each unit that may be located thereon.

(3) The minimum lot size for keeping domestic farm animals shall be one acre.

(4) All other lots shall have at least one acre for each unit that may be located thereon.

(5) Special exceptions.

(a) In order to preserve and safeguard Conway's older homes, but also allow for their conversion to multifamily dwellings, the Zoning Board of Adjustment may grant special exceptions for residential structures and accessory structures on the same conforming lot, provided that:

[1] Substantially all of the structure was constructed prior to 1930. **[Amended 4-10-2018 ATM by Art. 2]**

[2] The total number of dwelling units on the site does not exceed four. **[Amended 5-12-2020 ATM by Art. 4]**

[3] No less than 5,000 square feet of land area must be provided on the parcel for each unit that exists or is to be constructed thereon. **[Added 5-12-2020 ATM by Art. 4[25]]**

[4] No significant changes to the exterior lines of the building or exterior architectural detail are made which would diminish the historical appearance of the structure.

[5] Adequate area is available for parking outside the setback and buffer areas. **[Amended 5-12-2020 ATM by Art. 4]**

[6] Accessory structures must have at least 300 square feet of occupiable space per unit suitable for conversion to a dwelling unit. **[Amended 5-12-2020 ATM by Art. 4]**

[7] All of the dwelling units shall be used for long-term residency; short-term transient occupancies of less than 30 consecutive days of any dwelling unit is prohibited. **[Added 5-12-2020 ATM by Art. 4]**

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25. Editor's Note: This article also redesignated former Subsection B(5)(a)[4] and [5] as Subsection B(4)(a)[5] and [6].

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[8] Scaled floor plans and a scaled site drawing must be submitted to the Zoning Board of Adjustment at the time of application to ensure compliance with the requirements for this special exception. **[Added 5-12-2020 ATM by Art. 4]**

(b) In order to help provide year-round housing, one accessory dwelling unit shall be permitted without a special exception and by right by the Building Inspector as an accessory to a single-family dwelling on any size lot, subject to the enumerated conditions below. **[Amended 4-9-2019 ATM by Art. 2; 4-13-2021 ATM by Art. 5; 4-9-2024ATM by Art. 21]**

The Zoning Board of Adjustment may grant a special exception for a second accessory dwelling unit as an accessory use to a single-family dwelling, or one accessory dwelling unit as an accessory use to a duplex, on any size lot, subject to the following conditions:

[1] The accessory dwelling unit is designed to ensure architectural compatibility with the neighborhood.

[2] Sufficient parking is located on site with a minimum of one space per accessory dwelling unit.

[3] The accessory dwelling unit is subject to all other applicable zoning regulations including setbacks, elevations, and overlay district restrictions.

[4] The primary single-family dwelling, duplex, and accessory dwelling units, as applicable shall be used for long-term residency, and short-term transient occupancy of any dwelling unit is prohibited. The applicable occupancy restrictions shall be recorded at the Carroll County Registry of Deeds.

[5] A second accessory dwelling unit associated with a single-family dwelling and the sole accessory dwelling unit associated with a duplex shall be reserved as an affordable unit for an eligible renter as defined in § 195-8 of the Town of Conway Zoning Ordinance. The applicable affordability restrictions shall be recorded at the Carroll County Registry of Deeds.

[6] Adequate water supply and sewage disposal for an accessory dwelling unit shall be provided in accordance with RSA 485-A:38.

[7] Site plan approval shall not be required or be a condition to the Zoning Board of Adjustment granting a special exception under this subsection.

(c) The Zoning Board of Adjustment may grant a special exception for up to 12 dwelling units per acre in the Village Commercial and Highway Commercial Districts under the following conditions:

[1] Each structure must contain at least three dwelling units.

[2] Not less than 25% of all dwelling units shall be designated as full-time rental apartments. At the time of Planning Board approval, the units designated as full-time rental apartments must be shown on the plan with a condition that they are leased for 20 years from the date of Planning Board approval by the developer, and a deed restriction shall be recorded in the Registry of Deeds as evidence of the same.

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[3] All lots must be serviced by municipal water and sewerage.

[4] Rental/Deed-restricted units shall be a maximum of 1,000 square feet and a minimum of 300 square feet.

[5] Architectural design plans must be submitted to the Zoning Board of Adjustment at the time of application to ensure compliance with the zoning regulations.

C. Frontage. All lots must front on a state or Town highway with a Class I, II, III, IV or V classification, a private road constructed to Town standards as required by the Planning Board or a Class VI road proposed to be improved as stipulated by the Planning Board. To qualify as frontage, the lot must have access rights to the subject highway or road. The minimum distance for frontage on a road shall be:

(1) Fifty feet.

(2) One hundred feet for lots which front entirely on cul-de-sacs which meet the design requirements set forth in Chapter 130, Subdivision of Land, Article X, Detail #4, and approved by the Planning Board.

D. Setbacks. The minimum front setback shall be five feet and the minimum side or back setback shall be 10 feet.

E. Structure and building height. Structure height is restricted to achieve several purposes. The Town is economically dependent upon tourism and attracts visitors with its rural character and mountainous setting. Maintaining the traditional scale and style of structures aids in preserving the character of the Town. Peaked roofs are encouraged because it is the traditional roof style in the Town. (Care has been taken to prepare language which does not unduly encourage the use of flat-roof buildings.) The height restriction keeps structures and buildings below treetop level, which is typically from 60 feet to 100 feet for mature maple, beech, birch and pine trees. Structure height below treetop level helps maintain the rural atmosphere and preserve the viewsheds throughout the Town. In addition, the height limit minimizes difficulty in providing fire protection. Also, care must be taken to preserve the views to the west from the village. The following shall apply throughout the Town:

(1) Structure height shall not exceed 40 feet for any structure. For properties west of Route 16, structure height shall not exceed 30 feet. These restrictions shall not apply to wind energy systems permitted in accordance with Chapter 179 of the Conway Code. **[Amended 4-11-2017 ATM by Art. 2; 4-12-2022ATM by Art. 4]**

(2) Building height shall not exceed 30 feet. For properties west of Route 16, building height shall not exceed 25 feet. **[Amended 4-12-2022ATM by Art. 4]**

(3) Church steeples may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:

(a) The space enclosed in the steeple is not usable floor space other than for the maintenance and structural purposes of the steeple.

(b) The height of the steeple is appropriate to the design and size of the church.

F. Signs. **[Amended 4-14-2015 ATM by Arts. 2, 3 and 4; 4-12-2016 ATM by Arts. 2 and 4; 4-11-2017 ATM by Art. 2; 4-10-2018 ATM by Art. 3]**

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(1) Sign content. The Town has no intention of restricting individual free speech, but the Town does recognize its right to place reasonable restrictions upon commercial speech. Further, the Town wishes to prevent excessive or unnecessary signage along road corridors. In keeping with this reasoning, off-site commercial signs shall be prohibited.

(2) Freestanding sign. There shall be no more than one freestanding sign per lot, except that where a lot fronts on two or more public rights-of-way and has two entrances at least 500 feet apart, two freestanding signs shall be permitted.

(a) The size of the message area shall not exceed 40 square feet.

(b) The height of the message area shall not exceed 15 feet above the undisturbed ground.

(c) The width of the message area shall not exceed 12 feet.

(d) Setbacks.

[1] The minimum setback shall be 25 feet from a platted right-of-way and five feet from all other property boundaries.

[2] Freestanding sign setbacks may be reduced to 10 feet from a platted right-of-way if the size of the message area is reduced to 30 square feet maximum. All of the dimensional requirements, except the size of the message area and the minimum front setback, shall be required of these signs.

(e) Projecting signs, including sign structure, not to exceed six square feet in the Village Commercial District, are permitted in lieu of a freestanding sign. The sign shall be at least 10 feet above the ground; the top of the sign shall be no more than 15 feet above the ground.

(f) The Zoning Officer may approve the following: **[Amended 4-9-2019 ATM by Art. 3]**

[1] For two or more businesses located in a single building or within attached buildings and where the businesses share a common pedestrian entrance, an additional freestanding sign may be permitted for use as a directory sign, provided that the following conditions are met:

[a] The sign shall be used only to identify and locate businesses within;

[b] The message area shall not exceed 12 square feet;

[c] The height of the message area shall not exceed 20 feet above the undisturbed ground;

[d] The sign shall meet all setbacks; and

[e] The additional wall sign permitted by special exception under Subsection F(3)(c)[2] is not used.

[2] Where existing buildings are set back from the right-of-way less than the setback required for freestanding signs in Subsection F(1), the right-of-way setback of the freestanding sign may be reduced from 25 feet to any lesser amount down to five feet, provided that the following conditions are met:

[a] The message area shall be reduced to not more than 20 square feet;

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[b] The sign shall not obstruct vehicular or pedestrian traffic;

[c] The sign shall not obstruct the line-of-sight for traffic entering or exiting the site; and

[d] The sign shall not unduly obstruct the visibility of other signs or property in the area.

(g) One appendage may be attached to a freestanding or projecting sign, and the message area of this appendage shall be considered part of the total message area of the sign. No appendage shall be permitted on supports or directional signs.

(3) Wall sign. For lots without multiple commercial tenants, each lot shall be permitted one wall sign. For lots with multiple commercial tenants, each commercial tenant shall be permitted one wall sign. All wall signs shall be located on a wall which is common to both the interior and exterior of the business identified by the sign. The height of the message area shall not exceed the greater of 20 feet from the undisturbed ground or a height equal to 75% of the total height of the building, nor shall it exceed the height of the wall to which it is attached. The message area of the wall sign shall be based on the following formulas, subject to increase by bonus granted per Subsection F(12)(c).

(a) For floor areas up to and including 50,000 square feet, the maximum message area shall be calculated as follows: 20 + (total square feet floor area X 0.0016).

(b) If the floor area of the business is greater than 50,000 square feet, the maximum wall sign message area shall be 100 square feet. A business with a floor area greater than 50,000 square feet shall be permitted one additional wall sign if it has two or more exterior public or customer entrances, excluding emergency entrances, that are at least 20 feet apart. The message area of the second wall sign shall not exceed 20 square feet.

(c) The Zoning Officer may approve the following: **[Amended 4-9-2019 ATM by Art. 3]**

[1] For a major business in a shopping center or mall that does not have wall frontage facing its primary parking lot, one additional wall sign may be permitted, provided that the following conditions are met:

[a] The size of the message area shall not exceed 40 square feet;

[b] The sign shall be located on a wall facing the primary parking lot;

[c] Total wall sign area on the wall shall not exceed 10%; and

[d] All relevant height restrictions specified in Subsection F(2) apply.

[2] For two or more businesses located in a single building or within attached buildings and where the businesses share a common pedestrian entrance, an additional wall sign may be permitted, subject to the following:

[a] The sign shall be used only to identify and locate the businesses within;

[b] The message area shall not exceed 12 square feet;

[c] The sign shall be located immediately adjacent to the common entrance; and

[d] The additional freestanding sign permitted by special exception under

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Subsection F(2)(f)[1] is not used.

(4) Pedestrian-oriented off-site commercial signs (POOC signs) to encourage pedestrian activity (as opposed to vehicular traffic) in the North Conway Village Commercial District shall be permitted as follows:

(a) The POOC sign shall be posted in, and refer only to a business located in, the North Conway Village Commercial District;

(b) The POOC sign shall be located on private property;

(c) The POOC sign shall not be subject to setbacks;

(d) The POOC sign shall be mounted either on a freestanding pole or a wall, and when mounted on a freestanding pole there shall be no backing board of any kind;

(e) The POOC sign shall be located and oriented to direct and inform pedestrians, and visibility to vehicles on roads shall be minimized where reasonable;

(f) The POOC sign shall be a one- or two-sided sign with dimensions being four inches tall by 18 inches long;

(g) A business utilizing any other type of off-site commercial sign(s) within the Town shall be prohibited from using the POOC sign;

(h) A business shall be permitted to utilize no more than two POOC signs;

(i) No more than 10 POOC signs shall be located on a lot;

(j) A permit is required for the establishment of a new POOC sign, as well as for the change of message if the business identified by the POOC sign changes;

(k) Both the property owner of the lot on which the sign is located and the owner of the business to which the sign refers shall be co-applicants and must both sign the application and abide by the conditions of approval;

(l) The POOC sign shall provide a directional message only, and shall refer only to an off-site business; and

(m) The POOC sign shall be located within 400 feet of the lot to which it provides direction and, further, shall be on the same side of Route 16/302.

(5) Signs in platted ROW. Except as otherwise permitted below, no signs shall be permitted within any platted right-of-way:

(a) Special promotional banners that cross a public or private road, with a message area of 200 square feet or less, as approved by the Board of Selectmen for special events.

(b) Signs sanctioned by a municipal, state or federal signage program.

(6) Temporary event signage. In addition to signage otherwise permitted herein, temporary events may display up to 20 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

(a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall

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be set back a minimum of 10 feet from all other property boundaries;

(b) Maximum sign height shall be eight feet; and

(c) Maximum sign width shall be 10 feet.

(7) Special event signage. In addition to signage otherwise permitted herein, special events may display up to 40 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

(a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;

(b) Maximum sign height shall be eight feet; and

(c) Maximum sign width shall be 10 feet.

(8) Signs exempt from property line setbacks and no permit required:

(a) Signs with a message area of one square foot or less which bear only property numbers, post office numbers, names of occupants of the premises, other noncommercial identification, or with one of the following messages: "open"; "closed"; "vacancy"; or "no vacancy."

(b) Directional signs with a message area of four square feet or less, to indicate entrance and/or exit driveways.

(c) Business name and directional signs with a message area of three square feet or less which are located over doorways. Such signs may project from the wall surface.

(d) One portable A-frame sign per lot of record is permitted in the district. It may be displayed during business hours only, it shall have a message area of six square feet or less, no illumination of the sign is permitted, and no appendages to the sign are permitted.

(e) Window signs with a sign area that does not exceed 50% of the window area are permitted. Window signage that exceeds 50% of the window area is prohibited.

(f) Non-illuminated sign advertising the sale or lease of the premises upon which the sign is located, with a message area of 16 square feet or less. **[Amended 5-12-2020ATM by Art. 5]**

(g) Special promotional signs for special events as approved by the Board of Selectmen with a message area of 40 square feet or less.

(h) Directional signs to help locate facilities for disabled persons, with a message area not to exceed four square feet, as required for compliance with the Americans with Disabilities Act of 1990.[26]

(i) A home occupation may display a non-illuminated outdoor sign not exceeding three square feet in size.

(9) Signs subject to property line setbacks and no permit required:

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26. Editor's Note: See 42 U.S.C.A. § 12101 et seq.

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(a) Signs in parking lots to identify aisles, handicapped spaces, and reserved spaces.

(b) Signs which convey only a noncommercial message, including but not limited to ideological, political, social, cultural, or religious messages, with a message area of 12 square feet or less.

(10) Permit required for all other signs.

(a) Sign application process. Any action requiring a sign permit shall be permitted only upon the application to and approval of the Zoning Officer. Applications shall use the following process:

[1] An application form for each sign shall be completed and signed by the owner of the property.

[2] A complete application shall also include the following:

[a] Fee as set from time to time by the Board of Selectmen;

[b] Written description of the proposed type, size, height, setback, sign and supporting structure materials, and illumination of the sign;

[c] Statement specifically addressing compliance with off-site commercial sign restrictions; and

[d] Analysis regarding impact of safety, specifically addressing lighting/glare and line-of-sight blockage for vehicles and pedestrians.

[3] Upon receipt of a complete application, the Zoning Officer shall have up to 14 days to either approve or deny the application.

[4] If the application is denied, the Zoning Officer shall issue a written decision stating the reason(s) for denial.

[5] If the application is approved, the Zoning Officer shall issue an approval for the erection of a sign. The sign permit is valid for one year from date of approval. If the sign is not erected within one year, the permit shall expire.

(11) Design standards. The following design standards shall be required to ensure compliance with the intent of these regulations:

(a) Illumination. Signs shall not be illuminated from within; signs may be illuminated only by external light. Lighting shall be affixed to and, for dimensional purposes, considered part of the sign structure. Lighting shall be located, directed and/or shielded such that it only sheds light downward and is limited to the message display area. The lighting sources shall be of white light and be energy-efficient fixtures when possible. Fixtures shall be located, directed and/or shielded such that no direct light emissions are visible at any point along the property boundary, nor shall they be distracting to vehicular traffic.

(b) Neon. Neon lighting shall be prohibited.

(c) Motion. Moving signs, or signs which give the appearance of motion, shall be prohibited.

(d) Flashing/blinking. Flashing, blinking, alternating-type or digital-type lighting such as a digital message board shall be prohibited.

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(e) Structural supports and base. The support and base structure of a sign shall not exceed 50% of the maximum permitted message area of the sign. Such supports and base shall be measured on the single side or face having the greatest surface area. If the sign structural supports and base are made of wood, brick and/or stone, with only incidental use of other materials, the structure/base size limit shall be increased to 100% of the maximum permitted message area of the sign. The top of the supporting structure of a freestanding sign shall extend no farther above the top of the message area than 1/3 of the maximum permitted height of the message area.

(f) No sign shall project over a street or sidewalk, except for projecting signs as permitted herein.

(g) No sign shall be placed in such a position as to endanger vehicular or pedestrian traffic by obstructing a clear view, by causing confusion with government signs and signals, or by any other means.

(12) Movable signs. Movable signs shall be prohibited. No vehicle, including parts thereof, trailers, and other accessories, shall be used as a means of circumventing the purpose and intent of this chapter. A vehicle displaying a commercial message which is licensed, registered and inspected shall be exempt from these sign regulations if it is regularly and customarily used to transport persons or property for the business.

(13) Flags, banners, pennants, etc.

(a) In addition to the signs otherwise permitted by this chapter, there may be displayed, on any lot, up to three flags displaying any otherwise legal symbol, message or information, commercial or noncommercial; except that off-site commercial flags shall be restricted as set forth in this chapter. No such flag shall exceed 24 square feet measured by one face of the flag only. Any such flag shall be mounted directly to one flagpole. A "flagpole" is a pole intended and placed solely for the support and display of a flag or flags, and does not include utility poles, light poles, trees or other sign structures. All flagpoles shall be erected vertically, or within 45° of the vertical. No portion of any flagpole shall be sited within 10 feet of a property line. No flagpole shall extend more than 35 feet in height above grade or, if mounted on a building, 55 feet above the average finished grade of the building.

(b) Banners, feather flags, pennants, searchlights, twirling signs, balloons or other gas-filled figures, and other such materials shall be prohibited, except as specified herein.

(c) This subsection shall not be construed to prevent any sign otherwise permitted by this chapter, and which conforms to all sign requirements of this chapter, from taking the form of a flag or other fabric. Banners may be used to cover part or all of an existing freestanding, projecting or wall sign to advertise temporary events. The net effect of this activity shall not increase the message area of any permitted sign or signs.

(14) Maintenance. All surfaces and supporting structures of signs, whether erected prior to the effective date of this chapter or not, shall be maintained in a safe and sightly condition to the satisfaction of the Board of Selectmen or its authorized agent. A permit is required for any maintenance except the following: repainting; other surface renewal; or change of message on the same surface.

(15) Sign incentives. The purpose of these sign incentives is to reduce visual clutter and distraction

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from the natural environment caused by signs. This system offers design and size bonuses as a means of encouraging certain site and sign designs.

(a) Any freestanding, projecting or wall sign which conforms to all provisions of this chapter shall be permitted to utilize up to 20% of the maximum permitted message area for changeable copy.

(b) A freestanding sign which conforms to all provisions of this chapter shall be permitted to increase its message area by up to 20 square feet above that otherwise permitted under this chapter if the lot has at least 300 feet but less than 500 feet of frontage on a Class V or better road; or by up to 40 square feet above that otherwise permitted under this chapter if the lot has 500 feet or more of frontage on a Class V or better road. In no case, however, shall such increases cause any sign message area to exceed 80 square feet. The applicant shall submit a satisfactory written declaration, to be recorded at the Carroll County Registry of Deeds, in which the owner, its heirs, successors and assigns agree that, if the frontage of the property is subsequently reduced below that amount required for the bonus granted, the sign shall be removed or replaced with a sign which fully conforms with the provisions of this chapter; and that no subdivision of a lot shall be permitted unless a freestanding sign erected under this provision continues to conform to this provision; and such agreement must be legally enforceable by the Town of Conway.

(c) On a site where the freestanding sign conforms to all provisions of this chapter, the maximum wall sign message area permitted per Subsection F(3) may be increased by 50%.

G. Restrictions regarding home occupations. A home occupation is considered accessory to a residential use and shall not occupy an area greater than 50% of the total floor area of the residential unit or 1,500 square feet, whichever is less. Home occupations are subject to the following provisions and restrictions:

(1) The home occupation shall be carried on by persons who live in the principal residential unit full time. Two employees living off-premises are permitted.

(2) The home occupation shall be carried on within the principal residential unit or an approved accessory structure.

(3) Exterior storage of commercial vehicles, equipment or materials or variation from the residential character of the principal residential unit shall not be permitted.

(4) The home occupation shall create no unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or other nuisance or threat to the health of the abutters.

(5) Adequate off-street parking shall be provided.

(6) A home occupation shall not generate excessive traffic or traffic in greater volumes than would normally be expected in a residential neighborhood.

(7) A home occupation may display a sign conforming to Subsection F(7)(m) above. **[Amended 4-11-2017 ATM by Art. 2]**

(8) A change-of-use permit to operate a home occupation is required before startup of operation.

(9) Retail or wholesale sales are only permitted for those items raised or made on the premises.

(10) A home occupation shall not be offensive to the character of the neighborhood or decrease

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abutting property values.

H. Farm and nursery stands. Farm and nursery stands for selling indigenous produce or plants are considered temporary structures and are permitted, provided that:

(1) Farm stands shall not exceed 1,200 square feet of gross floor area unless granted site plan review approval by the Planning Board.[27]

(2) Three off-street parking spaces shall be required to be provided for structures up to 100 square feet in size. Additional parking shall be required at the rate of one space per 200 square feet over 100 square feet.

(3) Wall signs shall not exceed 10 square feet in size. One portable A-frame sign per lot, not to exceed six square feet, shall be allowed to be displayed during business hours only.

(4) All structures, parking areas and signs shall meet the setback requirements established herein.

I. Yard sales. Yard sales shall be permitted, provided that no one household holds sales on more than six days per calendar year.[28] **[Amended 4-11-2017 ATM by Art. 2]**

J. Commercial amusements. Because the Town wishes to maintain a character which protects the long-term, high-quality environment, which will ultimately protect tourism in the valley, commercial amusements are hereby regulated to prevent adverse impacts on the Town's character and environment. All commercial amusements on a lot shall be located within an enclosed building, and the following shall apply:

(1) Commercial amusements may occupy 10% or less of the floor space of a business in any business district, by permit of the Zoning Officer and without site plan review by the Planning Board.

(2) Commercial amusements may occupy more than 10% of the floor space of a business in any business district, subject to the condition that no noise, light or other adverse impact outside the building shall be caused by the amusements or their use. Site plan review approval by the Planning Board shall be required.[29]

K. Outdoor commercial activities such as drive-up windows, remote outdoor speaker systems, interactive signs, menu boards or other similar devices with speakers, any of which operate in close proximity to residential property, constitute a nuisance due to unconfined noise and light, as well as operating hours that are not compatible with the residential environment.

(1) Commercial activities that operate drive-up windows, remote outdoor speakers, interactive signs, menu boards or other similar devices with speakers that permit customers or the general public to communicate with personnel within the commercial building or other location on the commercial property shall be at least 300 feet from the closer of the residential zone boundary or from the nearest residential property line, and if the time of operation begins before 9:00 a.m. or ends after 5:00 p.m. the separation distance shall be at least 600 feet. Substantial effective buffering against sound and light shall be provided in either case. These setbacks may be waived by the Planning Board during the site plan review process if the property abuts the Floodplain

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27. Editor's Note: See Ch. 110, Site Plan Review.

28. Editor's Note: Original Subsection 147.13.7.10, Travel trailers and recreational vehicles, which immediately followed this subsection, was repealed 4-11-2017 ATM by Art. 2.

29. Editor's Note: See Ch. 110, Site Plan Review.

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Conservation District and it can be shown that there will be no sound or light impact on residential use.

L. Sexually oriented businesses.

(1) Purpose and intent. It is the purpose of this subsection to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the Town of Conway; and it is the intent to promote the health, safety and general welfare of the citizens of the Town of Conway; and it is the intent of this subsection that the regulations be utilized to prevent problems of blight and deterioration which accompany and are brought about by the concentration of sexually oriented businesses; and the provisions of this subsection have neither the purpose nor the effect of imposing limitations or restrictions on the context of any communicative materials, including sexually oriented materials; and it is not the intent nor effect of this subsection to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market; and neither is it the intent nor the effect of this subsection to condone or legitimize the distribution of obscene material.

(2) Restrictions. Sexually oriented businesses shall only be permitted in the business districts. Sexually oriented businesses shall not be permitted within 1,000 feet of a church or place of worship, parish house or convent, a public, parochial or private school, a state-approved day-care center, residence, any establishment in which minors constitute more than 50% of the patrons, a public park, or recreation center or another sexually oriented business.

(3) Measure of distance. The distance between any sexually oriented business and other named point of reference shall be measured in a straight line from the nearest part of the structure in which any sexually oriented business is proposed or exists to the nearest property boundary line of the lot containing any other named point of reference.

(4) Site plan approval by the Conway Planning Board shall be a prerequisite for the establishment of a sexually oriented business.[30] The Planning Board may impose reasonable restrictions relative to buffers, outdoor lighting, signs, parking, egress and ingress, pedestrian movement, landscaping, building aesthetics and measures to ensure that displays of merchandise conform with RSA Ch. 571-B.

(5) Violation of the provisions of this subsection is declared to be a public nuisance, which shall be abated by the Town of Conway by way of civil abatement procedures.

(6) Nothing in this subsection is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates any Town of Conway ordinance or statute of the State of New Hampshire regarding public nuisance, sexual conduct, lewdness, or obscene or harmful matter or the exhibition or public display thereof.

M. Mobile homes, travel trailers and recreational vehicles. One mobile home used as a residential unit is permitted on a lot in the district. **[Amended 4-12-2016 ATM by Art. 3; 4-11-2017 ATM by Art. 2]**

(1) A mobile home, travel trailer or recreational vehicle may be permitted on the site of a construction project for one year, provided that it is a necessary convenience for the construction project and that no public safety or health hazards shall be created.

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30. Editor's Note: See Ch. 110, Site Plan Review.

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(2) One travel trailer or recreational vehicle may be stored on a lot, provided that it is accessory to a permitted residential use on the subject property and not utilized for dwelling purposes. Travel trailers and recreational vehicles shall not be stored on vacant lots.

(3) All mobile homes permitted under this subsection must be connected to a sewerage system and water source, both meeting minimum local and State of New Hampshire standards, as applicable and then promulgated; such systems shall be approved by the Selectmen or their designated agent and be maintained so as not to cause a health or sanitation hazard.

N. Mobile home parks are allowed in the NCVC District, provided that they meet the following minimum requirements:

(1) A mobile home park shall contain a minimum of 10 acres and shall have a minimum frontage of 60 feet on or a sixty-foot right-of-way to a public street.

(2) There shall be at least 10 mobile home spaces available at first occupancy.

(3) A minimum of 10,000 square feet shall be provided for each mobile home space.

(4) Each mobile home shall be provided with a mobile home stand, surfaced with a material providing suitable stability to bear the weight of a mobile home at all times of the year and having adequate gradient or crown to provide for proper surface drainage.

(5) All State of New Hampshire requirements for mobile home parks shall be met.

(6) All mobile homes permitted under this subsection must be connected to a sewerage system and water source, both meeting minimum local and State of New Hampshire standards, as applicable and then promulgated; such systems shall be approved by the Selectmen or their designated agent and be maintained so as not to cause a health or sanitation hazard.

O. Outdoor dining establishments are permitted in the zoning district as an accessory to any approved restaurant use. **[Added 4-9-2024ATM by Art. 18]**

(1) An outdoor dining establishment application shall be accompanied by a plot plan, drawn to scale and dimensioned to included seating arrangements and immediately adjacent physical features such as fire hydrants, trees, structures, sidewalks, and pedestrian or vehicular travel ways. The plan shall be reviewed by the fire chief to ensure unimpeded pedestrian access. Outdoor dining areas shall be designed to maintain compliance with requirements of the American Disabilities Act (ADA).

(2) Establishments serving alcohol shall hold a valid liquor license from the State Liquor Commission prior to occupancy of the space. The license shall explicitly identify the outdoor dining area. Any permission granted by the Town of Conway will be subject to requirements of the State Liquor Commission.

(3) Outdoor dining areas must be maintained. A minimum of one trash receptacle shall be provided and identified on the plot plan. Plantings, barriers, and outdoor furniture shall be maintained and suitable for the intended purpose.

(4) Outdoor dining areas shall be separated from vehicular and pedestrian traffic. The separation must be adequate to ensure public safety; the minimum height of the barrier shall be 36 inches and the maximum height shall be 48 inches. Where no curbing or adequate vehicular separation exists, concreate or similar barriers shall be installed to prevent vehicular passage.

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(5) Outdoor entertainment associated with the dining area must not be considered a nuisance as defined in site plan regulations, § 110-39 and shall adhere to § 97-6A, Noise restrictions.

(6) Occupancy limits shall be established by the Fire Chief. Applications must indicate that adequate parking can be provided as per site plan regulations, § 110-21.

(7) Dining areas and associated equipment are subject to all applicable setbacks.

(8) Restroom facilities shall be readily accessible.

(9) Outdoor dining applications may be reviewed as a small undertaking as per site plan regulations, § 110-4. Site plan review is required for any proposal which reduces total site greenspace to less than 30%, proposes a reduction of greenspace of greater than 2,000 square feet, or increases structural floor area by greater than 25% or 1,000 square feet, whichever is more restrictive.

P. Special exceptions. The following land uses shall be allowed if granted a special exception by the Zoning Board of Adjustment:

(1) Mobile homes. The Zoning Board of Adjustment may grant a special exception for a mobile home on a lot on which a single-family residential structure exists if the following conditions are met:

(a) The mobile home shall be occupied only as the usual residence of the immediate family, including grandparents, parents and children, of the owner and/or spouse of the primary single-family residential structure on the lot, and the lot shall be at least one acre if served by municipal water and sewerage and at least two acres in all other cases; or the mobile home shall be occupied as the usual residence of a full-time agricultural employee and his immediate family, and the single-family residence shall be part of an owner-operated farm of 25 acres or more.

(b) The special exception shall terminate on a change of ownership or occupancy of either the mobile home or the primary residential structure.

(c) A permit shall be obtained from the Selectmen or their agent, which shall be renewed yearly to ensure compliance with the above conditions.

(2) Helicopters. A special exception may be granted for helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term nature. No approval for a special exception shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to Town residents and their property.

§ 190-20. Highway Commercial (HC) District.

The HC District is primarily designed to accommodate a compatible mixture of uses that complement commercial and residential uses typically associated with transportation corridors, large traffic flows and convenient access. The areas of this district that are serviced by municipal water and sewer can accommodate development at higher densities. Uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries. The HC District shall have the following bounds:

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(1) Conway Village Area South of the Saco River.

(a) The HC District in the Conway Village area south of the Saco River shall have the following bounds (Map and Parcel numbers refer to 2003 Town of Conway Tax Maps):

Commencing at the point of intersection of the center lines of Route 16 and Map 277, Parcel 322 (Conway Scenic Railroad); thence southwesterly along the center line of Map 277, Parcel 322 (Conway Scenic Railroad) to the Albany Town Line;

thence northerly along the Albany Town Line to a point 400 feet northwesterly of the center line of Route 16; thence northeasterly parallel with and 400 feet from the center line of Route 16 to the eastern boundary of Map 277, Parcel 265; thence southeasterly along the eastern boundary of Map 277, Parcel 265 to the northern boundary of the Route 16 ROW; thence northeasterly along the northern boundary of the Route 16 ROW and continuing on the same bearing to the western boundary of Map 277, Parcel 271;

thence northerly along the western boundary of Map 277, Parcel 271 and Map 264, Parcel 23 to the northwest corner of Map 264, Parcel 23; thence easterly along the northern boundary of Map 264, Parcel 23 and continuing on the same bearing to the center line of Towle Road; thence northerly along the center line of Towle Road to the center line of Route 112 (Kancamagus Highway); thence southerly along the center line of Route 112 (Kancamagus Highway) to the center line of Route 16, and thence easterly along the center line of Route 16 to the point of commencement.

(b) District map. The HC District Map, consisting of areas south of the Saco River, is included as an attachment to this chapter.

(2) Conway Village area north of the Saco River.

(a) The HC District in the Conway Village area north of the Saco River shall have the following bounds (Map and Parcel numbers refer to 2003 Town of Conway Tax Maps):

Commencing at a point on the center line of Route 16 adjacent to the northwest corner of Map 262, Parcel 72; thence easterly through the northwest corner of Map 262, Parcel 72, along the northern boundary of Map 262, Parcel 72 and continuing on the same bearing to a point 400 feet from the center line of Route 16; thence southerly parallel with and 400 feet from the center line of Route 16 to the northern shore of the Saco River; thence westerly along the northern shore of the Saco River to the center line of East Side Road;

thence northerly along the center line of East Side Road to a point 400 feet northwest of the center line of Route 16; thence northerly parallel with and 400 feet from the center line of Route 16 to the southern boundary of Map 262, Parcel 64.01; thence easterly along the southern boundary of Map 262, Parcel 64.01 to the southern boundary of Map 262, Parcel 65; thence easterly along the southern boundary of Map 262, Parcel 65 and continuing on the same bearing to the center line of Route 16, and thence northerly along the center line of Route 16 to the point of commencement.

(b) District map. The HC District Map, consisting of areas north of the Saco River, is included as an attachment to this chapter.

(3) North Conway area south of North Conway Village. **[Amended 4-14-2015 ATM by Art. 5; 4-12-2016 ATM by Art. 7]**

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(a) The HC District in the North Conway area south of North Conway Village shall have the following bounds (Map and Parcel numbers refer to 2003 Town of Conway Tax Maps as amended):

Commencing at the point on the thread of Kearsarge Brook 500 feet easterly of the center line of Route 16; thence southerly parallel with and 500 feet from the center line of Route 16 to the center line of Locust Lane; thence easterly along the center line of Locust Lane and continuing on the same bearing to the center line of the North-South Road; thence southerly along the center line of the North-South Road to a point adjacent to the southeast corner of Map 230, Parcel 51;

thence westerly through the southeast corner of Map 230, Parcel 51 and continuing along the southern boundary of Map 230, Parcel 51 to a point 500 feet from the center line of Route 16; thence southerly parallel with and 500 feet from the center line of Route 16 to the northern boundary of Map 235, Parcel 35; thence easterly along the northern boundary of Map 235, Parcel 35 to the center line of the North-South Road; thence southerly along the center line of the North-South Road to a point adjacent to the southeast corner of Map 235, Parcel 35; thence westerly through the southeast corner of Map 235, Parcel 35 and continuing along the southern boundary of Map 235, Parcel 35 to a point 500 feet from the center line of Route 16;

thence southerly parallel with and 500 feet from the center line of Route 16 to the northerly boundary of Map 235, Parcel 78; thence easterly along the northerly boundary of Map 235, Parcel 78 to its easterly boundary, common with the westerly boundary of Map 235, Parcel 70; thence southerly along the easterly boundary of Map 235, Parcel 78 and continuing to the southerly boundary of the Puddin' Pond Drive ROW; thence in a general westerly, then southerly direction along the southerly boundary of the Puddin' Pond Drive ROW to the northwest corner of Map 235, Parcel 82; thence easterly along the northern boundary of Map 235, Parcel 82 to the northeast corner of Map 235, Parcel 82, and following the same bearing to the center line of Map 219, Parcel 211 (former Maine Central Railroad); thence southerly along the center line of Map 219, Parcel 211 (former Maine Central Railroad) to a point adjacent to the southwest corner of Map 252, Parcel 31;

thence northeasterly through the southwest corner of Map 252, Parcel 31 to the southwest corner of Map 252, Parcel 42; thence traversing Map 252, Parcel 42 easterly in a straight line to the northwest corner of Map 252, Parcel 47; thence southerly along the western boundary of Map 252, Parcel 47 and continuing on the same bearing to the center line of Map 219, Parcel 211 (former Maine Central Railroad); thence southeasterly along the center line of Map 219, Parcel 211 (former Maine Central Railroad) to the center line of East Conway Road; thence westerly along the center line of East Conway Road and continuing on the same bearing to a point on the western boundary of Map 252, Parcel 2

thence northerly along the wester boundary of Map 252, Parcel 2 to the southerly corner of Map 252, Parcel 62; thence northerly along the eastern boundary of Map 252, Parcel 62 to a point at the westerly corner of Map 252, Parcel 19 and the southerly corner of Map 252, Parcel 20; thence running on a straight line southwesterly traversing Map 252, Parcel 62 to the northeasterly corner of Map 252, Parcel 60; thence along the northwestern boundary of Map 252, Parcel 60 to the centerline of Eagles Way; thence northwesterly along the centerline of Eagles' Way to a point where an extension of the southern boundary line of Map 246, Parcel 17 intersects with the centerline of Eagles Way;

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thence westerly in a straight line to the southeast corner of Map 246, Parcel 17; thence westerly along the southern boundary line of Map 246, Parcel 17 and continuing on the same bearing to the center line of Route 16; thence northerly along the center line of Route 16 to the intersection of the center line of Shaws Way;

thence west to a point 500 feet from the center line of Route 16; thence northerly parallel with and 500 feet from the center line of Route 16 to the southwestern boundary of Map 246, Parcel 20.001; thence northwesterly along the southwestern boundary of Map 246, Parcel 20.001 to the western boundary of Map 246, Parcel 22; thence northwesterly, southerly and westerly along the boundary of Map 246, Parcel 22 to the eastern shore of the Saco River; thence northerly along eastern shore of the Saco River to the center line of Map 218, Parcel 35 (Conway Scenic Railroad); thence northerly along the center line of Map 218, Parcel 35 (Conway Scenic Railroad) to the thread of Kearsarge Brook, and thence easterly along the thread of Kearsarge Brook to the point of commencement.

(b) District map. The HC District Map, consisting of areas south of North Conway, is included as an attachment to this chapter.

(4) North Conway area north of North Conway Village.

(a) The HC District in the North Conway area north of North Conway Village shall have the following bounds (Map and Parcel numbers refer to 2003 Town of Conway Tax Maps):

Commencing at the intersection of the center line of Route 16 and the Bartlett Town Line; thence easterly along the Bartlett Town Line to a point 300 feet from the center line of Route 16; thence southerly parallel with and 300 feet from the center line of Route 16 to the northern boundary of Map 215, Parcel 58; thence easterly along the northern boundary of Map 215, Parcel 58 and the southern boundary of Map 215, Parcel 51 to the southeast corner of Map 215, Parcel 51; thence northerly to the northeast corner of Map 215, Parcel 51;

thence easterly along the northern boundary of Map 215, Parcel 61 to the center line of Map 215, Parcel 81 (Conway Scenic Railroad); thence southerly along the center line of Map 215, Parcel 81 (Conway Scenic Railroad) to a point 300 feet from the center line of Route 16; thence northerly parallel with and 300 feet from the center line of Route 16 to the thread of Randall Brook; thence southerly along the thread of Randall Brook to the center line of River Road; thence southerly in a straight line to the northwest corner of Map 218, Parcel 52; thence southerly along the western boundary of Map 218, Parcel 52 to a point 200 feet from the center line of River Road;

thence westerly parallel with and 200 feet from the center line of River Road to the western boundary line of Map 218, Parcel 53; thence northerly along the western boundary line of Map 218, Parcel 53 and continuing on the same bearing to the center line of River Road; thence westerly along the center line of River Road to a point adjacent to the southeast corner of Map 215, Parcel 8; thence northerly in a straight line to the southeast corner of Map 215, Parcel 8;

thence northerly along the eastern boundary of Map 215, Parcel 8 to the southern boundary of Map 215, Parcel 33; thence westerly along the southern boundary of Map 215, Parcel 33 to the eastern shore of the Saco River; thence northerly along the eastern shore of the Saco River to the thread of Foster Brook; thence northerly along the thread of Foster Brook to the thread of Trout Brook; thence northerly along the thread of Trout Brook to

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the Bartlett Town Line, and thence easterly along the Bartlett Town Line to the point of commencement.

(b) District map. The HC District Map, consisting of areas north of North Conway Village, is included as an attachment to this chapter.

B. Lot size and density.

(1) Lots serviced by a municipal water system and municipal sewerage system shall have at least 1/2 acre for the first unit that may be located thereon and at least 10,000 square feet for each additional unit on the same lot.

(2) Lots serviced by a municipal water system shall have at least 1/2 acre for each unit that may be located thereon.

(3) The minimum lot size for keeping domestic farm animals shall be one acre.

(4) All other lots shall have at least one acre for each unit that may be located thereon.

(5) Special exceptions.

(a) In order to preserve and safeguard Conway's older homes, but also allow for their conversion to multifamily dwellings, the Zoning Board of Adjustment may grant special exceptions for residential structures and accessory structures on the same conforming lot, provided that:

[1] Substantially all of the structure was constructed prior to 1930. **[Amended 4-10-2018 ATM by Art. 2]**

[2] The total number of dwelling units on the site does not exceed four. **[Amended 5-12-2020 ATM by Art. 4]**

[3] No less than 5,000 square feet of land area must be provided on the parcel for each unit that exists or is to be constructed thereon. **[Added 5-12-2020 ATM by Art. 4[31]]**

[4] No significant changes to the exterior lines of the building or exterior architectural detail are made which would diminish the historical appearance of the structure.

[5] Adequate area is available for parking outside the setback and buffer areas. **[Amended 5-12-2020 ATM by Art. 4]**

[6] Accessory structures must have at least 300 square feet of occupiable space per unit suitable for conversion to a dwelling unit. **[Amended 5-12-2020 ATM by Art. 4]**

[7] All of the dwelling units shall be used for long-term residency; short-term transient occupancies of less than 30 consecutive days of any dwelling unit is prohibited. **[Added 5-12-2020 ATM by Art. 4]**

[8] Scaled floor plans and a scaled site drawing must be submitted to the Zoning Board of Adjustment at the time of application to ensure compliance with the requirements for this special exception. **[Added 5-12-2020 ATM by Art. 4]**

(b) In order to help provide year-round housing, one accessory dwelling unit shall be

31. Editor's Note: This article also redesignated former Subsection B(5)(a)[4] and [5] as Subsection B(4)(a)[5] and [6].

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permitted without a special exception and by right by the Building Inspector as an accessory to a single-family dwelling on any size lot, subject to the enumerated conditions below. **[Amended 4-9-2019 ATM by Art. 2; 4-13-2021 ATM by Art. 5; 4-9-2024ATM by Art. 21]**

The Zoning Board of Adjustment may grant a special exception for a second accessory dwelling unit as an accessory use to a single-family dwelling, or one accessory dwelling unit as an accessory use to a duplex, on any size lot, subject to the following conditions:

[1] The accessory dwelling unit is designed to ensure architectural compatibility with the neighborhood.

[2] Sufficient parking is located on site with a minimum of one space per accessory dwelling unit.

[3] The accessory dwelling unit is subject to all other applicable zoning regulations including setbacks, elevations, and overlay district restrictions.

[4] The primary single-family dwelling, duplex, and accessory dwelling units, as applicable shall be used for long-term residency, and short-term transient occupancy of any dwelling unit is prohibited. The applicable occupancy restrictions shall be recorded at the Carroll County Registry of Deeds.

[5] A second accessory dwelling unit associated with a single-family dwelling and the sole accessory dwelling unit associated with a duplex shall be reserved as an affordable unit for an eligible renter as defined in § 195-8 of the Town of Conway Zoning Ordinance. The applicable affordability restrictions shall be recorded at the Carroll County Registry of Deeds.

[6] Adequate water supply and sewage disposal for an accessory dwelling unit shall be provided in accordance with RSA 485-A:38.

[7] Site plan approval shall not be required or be a condition to the Zoning Board of Adjustment granting a special exception under this subsection.

(c) The Zoning Board of Adjustment may grant a special exception for up to 12 dwelling units per acre, in the Village Commercial and Highway Commercial Districts under the following conditions:

[1] Each structure must contain at least three dwelling units.

[2] Not less than 25% of all dwelling units shall be designated as full-time rental apartments. At the time of Planning Board approval, the units designated as full-time rental apartments must be shown on the plan with a condition that they are leased for 20 years from the date of Planning Board approval by the developer, and a deed restriction shall be recorded in the Registry of Deeds as evidence of the same.

[3] All lots must be serviced by municipal water and sewerage.

[4] Rental/Deed-restricted units shall be a maximum of 1,000 square feet and a minimum of 300 square feet.

[5] Architectural design plans must be submitted to the Zoning Board of Adjustment at

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the time of application to ensure compliance with the zoning regulations.

C. Frontage. All lots must front on a state or Town highway with a Class I, II, III, IV or V classification, a private road constructed to Town standards as required by the Planning Board or a Class VI road proposed to be improved as stipulated by the Planning Board. To qualify as frontage, the lot must have access rights to the subject highway or road. The minimum distance for frontage on a road shall be:

(1) One hundred fifty feet.

(2) One hundred feet for lots which front entirely on cul-de-sacs which meet the design requirements set forth in Chapter 130, Subdivision of Land, Article X, Detail #4, and approved by the Planning Board.

D. Setbacks. The minimum front setback shall be 25 feet from a platted right-of-way, or 100 feet from the platted right-of-way of the North-South Road between the extension of the center line of Barnes Road and the center line of Depot Road and the minimum side or back setback shall be 10 feet.

E. Structure and building height. Structure height is restricted to achieve several purposes. The Town is economically dependent upon tourism and attracts visitors with its rural character and mountainous setting. Maintaining the traditional scale and style of structures aids in preserving the character of the Town. Peaked roofs are encouraged because it is the traditional roof style in the Town. (Care has been taken to prepare language which does not unduly encourage the use of flat-roof buildings.) The height restriction keeps structures and buildings below treetop level, which is typically from 60 feet to 100 feet for mature maple, beech, birch and pine trees. Structure height below treetop level helps maintain the rural atmosphere and preserve the viewsheds throughout the Town. In addition, the height limit minimizes difficulty in providing fire protection. The following shall apply throughout the Town:

(1) Structure height shall not exceed 45 feet for any structure, except wind energy systems permitted in accordance with Chapter 179 of the Conway Code. For properties located in the North Conway area north of North Conway Village, structure height shall not exceed 40 feet. **[Amended 4-11-2017 ATM by Art. 2; 4-12-2022ATM by Art. 5; 4-11-2023ATM by Art. 12]**

(2) Building height shall not exceed 35 feet. For properties located in the North Conway area north of North Conway Village, building height shall not exceed 30 feet. **[Amended 4-12-2022ATM by Art. 5; 4-11-2023ATM by Art. 12]**

(3) Church steeples may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:

(a) The space enclosed in the steeple is not usable floor space other than for the maintenance and structural purposes of the steeple.

(b) The height of the steeple is appropriate to the design and size of the church.

F. Signs. **[Amended 4-14-2015 ATM by Arts. 2, 3 and 4; 4-12-2016 ATM by Art. 4; 4-11-2017 ATM by Art. 2; 4-10-2018 ATM by Art. 3]**

(1) Sign content. The Town has no intention of restricting individual free speech, but the Town does recognize its right to place reasonable restrictions upon commercial speech. Further, the Town wishes to prevent excessive or unnecessary signage along road corridors. In keeping with this

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reasoning, off-site commercial signs shall be prohibited.

(2) Freestanding sign. There shall be no more than one freestanding sign per lot, except that where a lot fronts on two or more public rights-of-way and has two entrances at least 500 feet apart, two freestanding signs shall be permitted.

(a) The size of the message area shall not exceed 40 square feet.

(b) The height of the message area shall not exceed 15 feet above the undisturbed ground.

(c) The width of the message area shall not exceed 12 feet.

(d) Setbacks.

[1] The minimum setback shall be 25 feet from a platted right-of-way, or 100 feet from the platted right-of-way of North-South Road between the extension of the center line of Barnes Road and the center line of Depot Road and five feet from all other property boundaries.

[2] Freestanding sign setbacks may be reduced to 10 feet from a platted right-of-way if the size of the message area is reduced to 30 square feet maximum. This provision does not apply to the platted right-of-way of North-South Road between the extension of the center line of Barnes Road and the center line of Depot Road. All of the dimensional requirements, except the size of the message area and the minimum front setback, shall be required of these signs.

(e) Projecting signs, including sign structure, not to exceed 20 square feet in the Highway Commercial Districts, are permitted in lieu of a freestanding sign. The sign shall be at least 10 feet above the ground; the top of the sign shall be no more than 15 feet above the ground.

(f) The Zoning Officer may approve the following: **[Amended 4-9-2019 ATM by Art. 3]**

[1] For two or more businesses located in a single building or within attached buildings and where the businesses share a common pedestrian entrance, an additional freestanding sign may be permitted for use as a directory sign, provided that the following conditions are met:

[a] The sign shall be used only to identify and locate businesses within;

[b] The message area shall not exceed 12 square feet;

[c] The height of the message area shall not exceed 20 feet above the undisturbed ground;

[d] The sign shall meet all setbacks; and

[e] The additional wall sign permitted by special exception under Subsection F(3)(c)[2] is not used.

[2] Where existing buildings are set back from the right-of-way less than the setback required for freestanding signs in Subsection F(1), the right-of-way setback of the freestanding sign may be reduced from 25 feet to any lesser amount down to five feet, provided that the following conditions are met:

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[a] The message area shall be reduced to not more than 20 square feet;

[b] The sign shall not obstruct vehicular or pedestrian traffic;

[c] The sign shall not obstruct the line-of-sight for traffic entering or exiting the site; and

[d] The sign shall not unduly obstruct the visibility of other signs or property in the area.

(g) One appendage may be attached to a freestanding or projecting sign, and the message area of this appendage shall be considered part of the total message area of the sign. No appendage shall be permitted on supports or directional signs.

(3) Wall sign. For lots without multiple commercial tenants, each lot shall be permitted one wall sign. For lots with multiple commercial tenants, each commercial tenant shall be permitted one wall sign. All wall signs shall be located on a wall which is common to both the interior and exterior of the business identified by the sign. The height of the message area shall not exceed the greater of 20 feet from the undisturbed ground or a height equal to 75% of the total height of the building, nor shall it exceed the height of the wall to which it is attached. The message area of the wall sign shall be based on the following formulas, subject to increase by bonus granted per Subsection F(12)(c).

(a) For floor areas up to and including 50,000 square feet, the maximum message area shall be calculated as follows: 20 + (total square feet floor area X 0.0016).

(b) If the floor area of the business is greater than 50,000 square feet, the maximum wall sign message area shall be 100 square feet. A business with a floor area greater than 50,000 square feet shall be permitted one additional wall sign if it has two or more exterior public or customer entrances, excluding emergency entrances that are at least 20 feet apart. The message area of the second wall sign shall not exceed 20 square feet.

(c) The Zoning Officer may approve the following: **[Amended 4-9-2019 ATM by Art. 3]**

[1] For a major business in a shopping center or mall that does not have wall frontage facing its primary parking lot, one additional wall sign may be permitted, provided that the following conditions are met:

[a] The size of the message area shall not exceed 40 square feet;

[b] The sign shall be located on a wall facing the primary parking lot;

[c] Total wall sign area on the wall shall not exceed 10%; and

[d] All relevant height restrictions specified in Subsection F(2) apply.

[2] For two or more businesses located in a single building or within attached buildings and where the businesses share a common pedestrian entrance, an additional wall sign may be permitted, subject to the following:

[a] The sign shall be used only to identify and locate the businesses within;

[b] The message area shall not exceed 12 square feet;

[c] The sign shall be located immediately adjacent to the common entrance; and

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[d] The additional freestanding sign permitted by special exception under Subsection F(2)(f)[1] is not used.

(4) Signs in platted ROW. Except as otherwise permitted below, no signs shall be permitted within any platted right-of-way:

(a) Special promotional banners that cross a public or private road, with a message area of 200 square feet or less, as approved by the Board of Selectmen for special events.

(b) Signs sanctioned by a municipal, state or federal signage program.

(5) Temporary event signage. In addition to signage otherwise permitted herein, temporary events may display up to 20 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

(a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;

(b) Maximum sign height shall be eight feet; and

(c) Maximum sign width shall be 10 feet.

(6) Special event signage. In addition to signage otherwise permitted herein, special events may display up to 40 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

(a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;

(b) Maximum sign height shall be eight feet; and

(c) Maximum sign width shall be 10 feet.

(7) Signs exempt from property line setbacks and no permit required:

(a) Signs with a message area of one square foot or less which bear only property numbers, post office numbers, names of occupants of the premises, other noncommercial identification, or with one of the following messages: "open"; "closed"; "vacancy"; or "no vacancy."

(b) Directional signs with a message area of four square feet or less, to indicate entrance and/or exit driveways.

(c) Business name and directional signs with a message area of three square feet or less which are located over doorways. Such signs may project from the wall surface.

(d) One portable A-frame sign per lot of record is permitted in the district. It may be displayed during business hours only, it shall have a message area of six square feet or less, no illumination of the sign is permitted, and no appendages to the sign are permitted.

(e) Window signs with a sign area that does not exceed 50% of the window area are permitted. Window signage that exceeds 50% of the window area is prohibited.

(f) Non-illuminated sign advertising the sale or lease of the premises upon which the sign is located, with a message area of 16 square feet or less. **[Amended 5-12-2020ATM by Art.**

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(g) Special promotional signs for special events as approved by the Board of Selectmen with a message area of 40 square feet or less.

(h) Directional signs to help locate facilities for disabled persons, with a message area not to exceed four square feet, as required for compliance with the Americans with Disabilities Act of 1990.[32]

(i) A home occupation may display a non-illuminated outdoor sign not exceeding three square feet in size.

(8) Signs subject to property line setbacks and no permit required:

(a) Signs in parking lots to identify aisles, handicapped spaces, and reserved spaces.

(b) Signs which convey only a noncommercial message, including but not limited to ideological, political, social, cultural, or religious messages, with a message area of 12 square feet or less.

(9) Permit required for all other signs.

(a) Sign application process. Any action requiring a sign permit shall be permitted only upon the application to and approval of the Zoning Officer. Applications shall use the following process:

[1] An application form for each sign shall be completed and signed by the owner of the property.

[2] A complete application shall also include the following:

[a] Fee as set from time to time by the Board of Selectmen;

[b] Written description of the proposed type, size, height, setback, sign and supporting structure materials, and illumination of the sign;

[c] Statement specifically addressing compliance with off-site commercial sign restrictions; and

[d] Analysis regarding impact of safety, specifically addressing lighting/glare and line-of-sight blockage for vehicles and pedestrians.

[3] Upon receipt of a complete application, the Zoning Officer shall have up to 14 days to either approve or deny the application.

[4] If the application is denied, the Zoning Officer shall issue a written decision stating the reason(s) for denial.

[5] If the application is approved, the Zoning Officer shall issue an approval for the erection of a sign. The sign permit is valid for one year from date of approval. If the sign is not erected within one year, the permit shall expire.

(10) Design standards. The following design standards shall be required to ensure compliance with

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32. Editor's Note: See 42 U.S.C.A. § 12101 et seq.

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the intent of these regulations:

(a) Illumination. Signs shall not be illuminated from within; signs may be illuminated only by external light. Lighting shall be affixed to and, for dimensional purposes, considered part of the sign structure. Lighting shall be located, directed and/or shielded such that it only sheds light downward and is limited to the message display area. The lighting sources shall be of white light and be energy-efficient fixtures when possible. Fixtures shall be located, directed and/or shielded such that no direct light emissions are visible at any point along the property boundary, nor shall they be distracting to vehicular traffic.

(b) Neon. Neon lighting shall be prohibited.

(c) Motion. Moving signs, or signs which give the appearance of motion, shall be prohibited.

(d) Flashing/blinking. Flashing, blinking, alternating-type or digital-type lighting such as a digital message board shall be prohibited.

(e) Structural supports and base. The support and base structure of a sign shall not exceed 50% of the maximum permitted message area of the sign. Such supports and base shall be measured on the single side or face having the greatest surface area. If the sign structural supports and base are made of wood, brick and/or stone, with only incidental use of other materials, the structure/base size limit shall be increased to 100% of the maximum permitted message area of the sign. The top of the supporting structure of a freestanding sign shall extend no farther above the top of the message area than 1/3 of the maximum permitted height of the message area.

(f) No sign shall project over a street or sidewalk, except for projecting signs as permitted herein.

(g) No sign shall be placed in such a position as to endanger vehicular or pedestrian traffic by obstructing a clear view, by causing confusion with government signs and signals, or by any other means.

(11) Movable signs. Movable signs shall be prohibited. No vehicle, including parts thereof, trailers, and other accessories, shall be used as a means of circumventing the purpose and intent of this chapter. A vehicle displaying a commercial message which is licensed, registered and inspected shall be exempt from these sign regulations if it is regularly and customarily used to transport persons or property for the business.

(12) Flags, banners, pennants, etc.

(a) In addition to the signs otherwise permitted by this chapter, there may be displayed, on any lot, up to three flags displaying any otherwise legal symbol, message or information, commercial or noncommercial; except that off-site commercial flags shall be restricted as set forth in this chapter. No such flag shall exceed 24 square feet measured by one face of the flag only. Any such flag shall be mounted directly to one flagpole. A "flagpole" is a pole intended and placed solely for the support and display of a flag or flags, and does not include utility poles, light poles, trees or other sign structures. All flagpoles shall be erected vertically, or within 45° of the vertical. No portion of any flagpole shall be sited within 10 feet of a property line. No flagpole shall extend more than 35 feet in height above grade or, if mounted on a building, 55 feet above the average finished grade of the building.

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(b) Banners, feather flags, pennants, searchlights, twirling signs, balloons or other gas-filled figures, and other such materials shall be prohibited, except as specified herein.

(c) This subsection shall not be construed to prevent any sign otherwise permitted by this chapter, and which conforms to all sign requirements of this chapter, from taking the form of a flag or other fabric. Banners may be used to cover part or all of an existing freestanding, projecting or wall sign to advertise temporary events. The net effect of this activity shall not increase the message area of any permitted sign or signs.

(13) Maintenance. All surfaces and supporting structures of signs, whether erected prior to the effective date of this chapter or not, shall be maintained in a safe and sightly condition to the satisfaction of the Board of Selectmen or its authorized agent. A permit is required for any maintenance except the following: repainting; other surface renewal; or change of message on the same surface.

(14) Sign incentives. The purpose of these sign incentives is to reduce visual clutter and distraction from the natural environment caused by signs. This system offers design and size bonuses as a means of encouraging certain site and sign designs.

(a) Any freestanding, projecting or wall sign which conforms to all provisions of this chapter shall be permitted to utilize up to 20% of the maximum permitted message area for changeable copy.

(b) A freestanding sign which conforms to all provisions of this chapter shall be permitted to increase its message area by up to 20 square feet above that otherwise permitted under this chapter if the lot has at least 300 feet but less than 500 feet of frontage on a Class V or better road; or by up to 40 square feet above that otherwise permitted under this chapter if the lot has 500 feet or more of frontage on a Class V or better road. In no case, however, shall such increases cause any sign message area to exceed 80 square feet. The applicant shall submit a satisfactory written declaration, to be recorded at the Carroll County Registry of Deeds, in which the owner, its heirs, successors and assigns agree that, if the frontage of the property is subsequently reduced below that amount required for the bonus granted, the sign shall be removed or replaced with a sign which fully conforms with the provisions of this chapter; and that no subdivision of a lot shall be permitted unless a freestanding sign erected under this provision continues to conform to this provision; and such agreement must be legally enforceable by the Town of Conway.

(c) On a site where the freestanding sign conforms to all provisions of this chapter, the maximum wall sign message area permitted per Subsection F(3) may be increased by 50%.

G. Restrictions regarding home occupations. A home occupation is considered accessory to a residential use and shall not occupy an area greater than 50% of the total floor area of the residential unit or 1,500 square feet, whichever is less. Home occupations are subject to the following provisions and restrictions:

(1) The home occupation shall be carried on by persons who live in the principal residential unit full time. Two employees living off-premises are permitted.

(2) The home occupation shall be carried on within the principal residential unit or an approved accessory structure.

(3) Exterior storage of commercial vehicles, equipment or materials or variation from the residential

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character of the principal residential unit shall not be permitted.

(4) The home occupation shall create no unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or other nuisance or threat to the health of the abutters.

(5) Adequate off-street parking shall be provided.

(6) A home occupation shall not generate excessive traffic or traffic in greater volumes than would normally be expected in a residential neighborhood.

(7) A home occupation may display a sign conforming to Subsection F(7)(m) above. **[Amended 4-11-2017 ATM by Art. 2]**

(8) A change-of-use permit to operate a home occupation is required before startup of operation.

(9) Retail or wholesale sales are only permitted for those items raised or made on the premises.

(10) A home occupation shall not be offensive to the character of the neighborhood or decrease abutting property values.

H. Farm and nursery stands. Farm and nursery stands for selling indigenous produce or plants are considered temporary structures and are permitted, provided that:

(1) Farm stands shall not exceed 1,200 square feet of gross floor area unless granted site plan review approval by the Planning Board.[33]

(2) Three off-street parking spaces shall be required to be provided for structures up to 100 square feet in size. Additional parking shall be required at the rate of one space per 200 square feet over 100 square feet.

(3) Wall signs shall not exceed 10 square feet in size. One portable A-frame sign per lot, not to exceed six square feet, shall be allowed to be displayed during business hours only.

(4) All structures, parking areas and signs shall meet the setback requirements established herein.

I. Yard sales. Yard sales shall be permitted, provided that no one household holds sales on more than six days per calendar year. **[Amended 4-11-2017 ATM by Art. 2]**

J. Mobile homes, travel trailers and recreational vehicles. One mobile home used as a residential unit is permitted on a lot in the district. **[Amended 4-12-2016 ATM by Art. 3; 4-11-2017 ATM by Art. 2]**

(1) A mobile home, travel trailer or recreational vehicle may be permitted on the site of a construction project for one year, provided that it is a necessary convenience for the construction project and that no public safety or health hazards shall be created.

(2) One travel trailer or recreational vehicle may be stored on a lot, provided that it is accessory to a permitted residential use on the subject property and not utilized for dwelling purposes. Travel trailers and recreational vehicles shall not be stored on vacant lots.

(3) All mobile homes permitted under this subsection must be connected to a sewerage system and water source, both meeting minimum local and State of New Hampshire standards, as applicable and then promulgated; such systems shall be approved by the Selectmen or their designated agent and be maintained so as not to cause a health or sanitation hazard.

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33. Editor's Note: See Ch. 110, Site Plan Review.

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K. Mobile home parks are allowed in the district, provided that they meet the following minimum requirements: **[Amended 4-11-2017 ATM by Art. 2]**

(1) A mobile home park shall contain a minimum of 10 acres and shall have a minimum frontage of 60 feet on or a sixty-foot right-of-way to a public street.

(2) There shall be at least 10 mobile home spaces available at first occupancy.

(3) A minimum of 10,000 square feet shall be provided for each mobile home space.

(4) Each mobile home shall be provided with a mobile home stand, surfaced with a material providing suitable stability to bear the weight of a mobile home at all times of the year and having adequate gradient or crown to provide for proper surface drainage.

(5) All State of New Hampshire requirements for mobile home parks shall be met.

(6) All mobile homes permitted under this subsection must be connected to a sewerage system and water source, both meeting minimum local and State of New Hampshire standards, as applicable and then promulgated; such systems shall be approved by the Selectmen or their designated agent and be maintained so as not to cause a health or sanitation hazard.

L. Commercial amusements. Because the Town wishes to maintain a character which protects the long-term, high-quality environment, which will ultimately protect tourism in the valley, commercial amusements are hereby regulated to prevent adverse impacts on the Town's character and environment. All commercial amusements on a lot shall be located within an enclosed building, and the following shall apply:

(1) Commercial amusements may occupy 10% or less of the floor space of a business in any business district, by permit of the Zoning Officer and without site plan review by the Planning Board.

(2) Commercial amusements may occupy more than 10% of the floor space of a business in any business district, subject to the condition that no noise, light or other adverse impact outside the building shall be caused by the amusements or their use. Site plan review approval by the Planning Board shall be required.[34]

M. Outdoor commercial activities such as commercial amusement facilities, drive-up windows, remote outdoor speaker systems, interactive signs, menu boards or other similar devices with speakers, any of which operate in close proximity to residential property, constitute a nuisance due to unconfined noise and light, as well as operating hours that are not compatible with the residential environment.

(1) A commercial amusement facility, as defined herein, that operates outdoor amusements and that seeks to expand that use under § 190-30, Nonconformity, shall locate said amusements at least 300 feet from the closer of the residential zone boundary or from the nearest residential property line, and if the time of operation begins before 9:00 a.m. or ends after 5:00 p.m. the distance shall be at least 600 feet. Substantial effective buffering against sound and light shall be provided in either case. These setbacks may be waived by the Planning Board during the site plan review process if the property abuts the Floodplain Conservation District and it can be shown that there will be no sound or light impact on residential use.

(2) Commercial activities that operate drive-up windows, remote outdoor speakers, interactive

34. Editor's Note: See Ch. 110, Site Plan Review.

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signs, menu boards or other similar devices with speakers that permit customers or the general public to communicate with personnel within the commercial building or other location on the commercial property shall be at least 300 feet from the closer of the residential zone boundary or from the nearest residential property line, and if the time of operation begins before 9:00 a.m. or ends after 5:00 p.m. the separation distance shall be at least 600 feet. Substantial effective buffering against sound and light shall be provided in either case. These setbacks may be waived by the Planning Board during the site plan review process if the property abuts the Floodplain Conservation District and it can be shown that there will be no sound or light impact on residential use.

N. Sexually oriented businesses.

(1) Purpose and intent. It is the purpose of this subsection to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the Town of Conway; and it is the intent to promote the health, safety and general welfare of the citizens of the Town of Conway; and it is the intent of this subsection that the regulations be utilized to prevent problems of blight and deterioration which accompany and are brought about by the concentration of sexually oriented businesses; and the provisions of this subsection have neither the purpose nor the effect of imposing limitations or restrictions on the context of any communicative materials, including sexually oriented materials; and it is not the intent nor effect of this subsection to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market; and neither is it the intent nor the effect of this subsection to condone or legitimize the distribution of obscene material.

(2) Restrictions. Sexually oriented businesses shall only be permitted in the business districts. Sexually oriented businesses shall not be permitted within 1,000 feet of a church or place of worship, parish house or convent, a public, parochial or private school, a state-approved day-care center, residence, any establishment in which minors constitute more than 50% of the patrons, a public park, or recreation center or another sexually oriented business.

(3) Measure of distance. The distance between any sexually oriented business and other named point of reference shall be measured in a straight line from the nearest part of the structure in which any sexually oriented business is proposed or exists to the nearest property boundary line of the lot containing any other named point of reference.

(4) Site plan approval by the Conway Planning Board shall be a prerequisite for the establishment of a sexually oriented business.[35] The Planning Board may impose reasonable restrictions relative to buffers, outdoor lighting, signs, parking, egress and ingress, pedestrian movement, landscaping, building aesthetics and measures to ensure that displays of merchandise conform with RSA Ch. 571-B.

(5) Violation of the provisions of this subsection is declared to be a public nuisance, which shall be abated by the Town of Conway by way of civil abatement procedures.

(6) Nothing in this subsection is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates any Town of Conway ordinance or statute of the State of New Hampshire regarding public nuisance, sexual conduct, lewdness, or obscene or harmful matter or the exhibition or public display thereof.

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35. Editor's Note: See Ch. 110, Site Plan Review.

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O. Outdoor dining establishments are permitted in the zoning district as an accessory to any approved restaurant use. **[Added 4-9-2024ATM by Art. 18]**

(1) An outdoor dining establishment application shall be accompanied by a plot plan, drawn to scale and dimensioned to included seating arrangements and immediately adjacent physical features such as fire hydrants, trees, structures, sidewalks, and pedestrian or vehicular travel ways. The plan shall be reviewed by the fire chief to ensure unimpeded pedestrian access. Outdoor dining areas shall be designed to maintain compliance with requirements of the American Disabilities Act (ADA).

(2) Establishments serving alcohol shall hold a valid liquor license from the State Liquor Commission prior to occupancy of the space. The license shall explicitly identify the outdoor dining area. Any permission granted by the Town of Conway will be subject to requirements of the State Liquor Commission.

(3) Outdoor dining areas must be maintained. A minimum of one trash receptacle shall be provided and identified on the plot plan. Plantings, barriers, and outdoor furniture shall be maintained and suitable for the intended purpose.

(4) Outdoor dining areas shall be separated from vehicular and pedestrian traffic. The separation must be adequate to ensure public safety; the minimum height of the barrier shall be 36 inches and the maximum height shall be 48 inches. Where no curbing or adequate vehicular separation exists, concreate or similar barriers shall be installed to prevent vehicular passage.

(5) Outdoor entertainment associated with the dining area must not be considered a nuisance as defined in site plan regulations, § 110-39 and shall adhere to § 97-6A, Noise restrictions.

(6) Occupancy limits shall be established by the Fire Chief. Applications must indicate that adequate parking can be provided as per site plan regulations, § 110-21.

(7) Dining areas and associated equipment are subject to all applicable setbacks.

(8) Restroom facilities shall be readily accessible.

(9) Outdoor dining applications may be reviewed as a small undertaking as per site plan regulations, § 110-4. Site plan review is required for any proposal which reduces total site greenspace to less than 30%, proposes a reduction of greenspace of greater than 2,000 square feet, or increases structural floor area by greater than 25% or 1,000 square feet, whichever is more restrictive.

P. Special exceptions. The following land uses shall be allowed if granted a special exception by the Zoning Board of Adjustment:

(1) Mobile homes. The Zoning Board of Adjustment may grant a special exception for a mobile home on a lot on which a single-family residential structure exists if the following conditions are met:

(a) The mobile home shall be occupied only as the usual residence of the immediate family, including grandparents, parents and children, of the owner and/or spouse of the primary single-family residential structure on the lot, and the lot shall be at least one acre if served by municipal water and sewerage and at least two acres in all other cases; or the mobile home shall be occupied as the usual residence of a full-time agricultural employee and his immediate family, and the single-family residence shall be part of an owner-operated farm of 25 acres or more.

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(b) The special exception shall terminate on a change of ownership or occupancy of either the mobile home or the primary residential structure.

(c) A permit shall be obtained from the Selectmen or their agent, which shall be renewed yearly to ensure compliance with the above conditions.

(2) Helicopters. A special exception may be granted for helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term nature. No approval for a special exception shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to Town residents and their property.

§ 190-21. Regional Commercial (RC) District.

(Reserved)

§ 190-22. Industrial-1 (I1) District. [Amended 4-14-2015 ATM by Art. 2, Art. 3, Art. 4; 4-12-2016 ATM by Art. 2, Art. 3, Art. 4; 4-11-2017 ATM by Art. 2]

The I1 District is primarily designed to accommodate a compatible mixture of uses that complement commercial and light industrial uses. Residential uses, hotels and motels are specifically prohibited in this district. This district is serviced by municipal water and sewer and can accommodate development at higher densities. Uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries.

(1) The I1 District shall have the following bounds (Map and Parcel numbers refer to 2003 Town of Conway Tax Maps):

Commencing at a point being the northeast corner of Map 277, Parcel 136; thence southerly along the eastern boundary of Map 277, Parcel 136 to the northern shore of Pequawket Pond; thence southwesterly along the shore of Pequawket Pond to the southwest corner of Map 277, Parcel 144; thence northerly along the western boundary of Map 277, Parcel 144 and continuing through the northwest corner of Map 277, Parcel 144 to a point on the center line of Hobbs Street; thence easterly along the center line of Hobbs Street to a point adjacent to the southwest corner of Map 277, Parcel 182;

thence northerly to the southwest corner of Map 277, Parcel 182, thence northerly along the western boundary of Map 277, Parcel 182 to the southwest corner of Map 277, Parcel 191; thence northerly along the western boundary of Map 277, Parcel 191 to the southern boundary of the West Main Street ROW; thence easterly along the southern boundary of the West Main Street ROW to the northeast corner of Map 277, Parcel 191; thence southerly along the eastern boundary of Map 277, Parcel 191 to the northwest corner of Map 277, Parcel 188; thence easterly along the northern boundary of Map 277, Parcel 188 and continuing through the northeast corner of Map 277, Parcel 188 to the center line of Hobbs Street; thence northerly along the center line of Hobbs Street to the southern boundary of the West Main Street ROW; thence easterly along the southern boundary of the West Main Street ROW to the point of commencement.

(2) District map. The I1 District Map is included as an attachment to this chapter.

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B. Lot size and density. All lots shall have at least 1/2 acre for the first unit that may be located thereon and at least 10,000 square feet for each additional unit on the same lot.

C. Frontage. All lots must front on a state or Town highway with a Class I, II, III, IV or V classification, a private road constructed to Town standards as required by the Planning Board or a Class VI road proposed to be improved as stipulated by the Planning Board. To qualify as frontage, the lot must have access rights to the subject highway or road. The minimum distance for frontage on a road shall be:

(1) One hundred fifty feet.

(2) One hundred feet for lots which front entirely on cul-de-sacs which meet the design requirements set forth in Chapter 130, Subdivision of Land, Article X, Detail #4, and approved by the Planning Board.

D. Setbacks. The minimum front setback shall be 25 feet and the minimum side or back setback shall be 10 feet. Where the I1 District borders the RA District, a twenty-five-foot setback shall be required for that portion of the I1 lot abutting the RA lot.

E. Structure and building height. Structure height is restricted to achieve several purposes. The Town is economically dependent upon tourism and attracts visitors with its rural character and mountainous setting. Maintaining the traditional scale and style of structures aids in preserving the character of the Town. Peaked roofs are encouraged because it is the traditional roof style in the Town. (Care has been taken to prepare language which does not unduly encourage the use of flat-roof buildings.) The height restriction keeps structures and buildings below treetop level, which is typically from 60 feet to 100 feet for mature maple, beech, birch and pine trees. Structure height below treetop level helps maintain the rural atmosphere and preserve the viewsheds throughout the Town. In addition, the height limit minimizes difficulty in providing fire protection. The following shall apply throughout the Town:

(1) Structure height shall not exceed 55 feet for any structure, except wind energy systems permitted in accordance with Chapter 179 of the Conway Code.

(2) Building height shall not exceed 45 feet.

(3) Church steeples may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:

(a) The space enclosed in the steeple is not usable floor space other than for the maintenance and structural purposes of the steeple.

(b) The height of the steeple is appropriate to the design and size of the church.

F. Signs. **[Amended 4-10-2018 ATM by Art. 3]**

(1) Sign content. The Town has no intention of restricting individual free speech, but the Town does recognize its right to place reasonable restrictions upon commercial speech. Further, the Town wishes to prevent excessive or unnecessary signage along road corridors. In keeping with this reasoning, off-site commercial signs shall be prohibited.

(2) Freestanding sign. There shall be no more than one freestanding sign per lot, except that where a lot fronts on two or more public rights-of-way and has two entrances at least 500 feet apart, two freestanding signs shall be permitted.

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(a) The size of the message area shall not exceed 40 square feet.

(b) The height of the message area shall not exceed 15 feet above the undisturbed ground.

(c) The width of the message area shall not exceed 12 feet.

(d) Setbacks.

[1] The minimum setback shall be 25 feet from a platted right-of-way and five feet from all other property boundaries.

[2] Freestanding sign setbacks may be reduced to 10 feet from a platted right-of-way if the size of the message area is reduced to 30 square feet maximum. All of the dimensional requirements, except the size of the message area and the minimum front setback, shall be required of these signs.

(e) Projecting signs are not permitted in the I1 District.

(f) The Zoning Officer may approve the following: **[Amended 4-9-2019 ATM by Art. 3]**

[1] For two or more businesses located in a single building or within attached buildings and where the businesses share a common pedestrian entrance, an additional freestanding sign may be permitted for use as a directory sign, provided that the following conditions are met:

[a] The sign shall be used only to identify and locate businesses within;

[b] The message area shall not exceed 12 square feet;

[c] The height of the message area shall not exceed 20 feet above the undisturbed ground;

[d] The sign shall meet all setbacks; and

[e] The additional wall sign permitted by special exception under Subsection F(3)(c)[2] is not used.

[2] Where existing buildings are set back from the right-of-way less than the setback required for freestanding signs in Subsection F(1), the right-of-way setback of the freestanding sign may be reduced from 25 feet to any lesser amount down to five feet, provided that the following conditions are met:

[a] The message area shall be reduced to not more than 20 square feet;

[b] The sign shall not obstruct vehicular or pedestrian traffic;

[c] The sign shall not obstruct the line-of-sight for traffic entering or exiting the site; and

[d] The sign shall not unduly obstruct the visibility of other signs or property in the area.

(g) One appendage may be attached to a freestanding or projecting sign, and the message area of this appendage shall be considered part of the total message area of the sign. No appendage shall be permitted on supports or directional signs.

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(3) Wall sign. For lots without multiple commercial tenants, each lot shall be permitted one wall sign. For lots with multiple commercial tenants, each commercial tenant shall be permitted one wall sign. All wall signs shall be located on a wall which is common to both the interior and exterior of the business identified by the sign. The height of the message area shall not exceed the greater of 20 feet from the undisturbed ground or a height equal to 75% of the total height of the building, nor shall it exceed the height of the wall to which it is attached. The message area of the wall sign shall be based on the following formulas, subject to increase by bonus granted per Subsection F(12)(c).

(a) For floor areas up to and including 50,000 square feet, the maximum message area shall be calculated as follows: 20 + (total square feet floor area X 0.0016).

(b) If the floor area of the business is greater than 50,000 square feet, the maximum wall sign message area shall be 100 square feet. A business with a floor area greater than 50,000 square feet shall be permitted one additional wall sign if it has two or more exterior public or customer entrances, excluding emergency entrances that are at least 20 feet apart. The message area of the second wall sign shall not exceed 20 square feet.

(c) The Zoning Officer may approve the following: **[Amended 4-9-2019 ATM by Art. 3]**

[1] For a major business in a shopping center or mall that does not have wall frontage facing its primary parking lot, one additional wall sign may be permitted, provided that the following conditions are met:

[a] The size of the message area shall not exceed 40 square feet;

[b] The sign shall be located on a wall facing the primary parking lot;

[c] Total wall sign area on the wall shall not exceed 10%; and

[d] All relevant height restrictions specified in Subsection F(2) apply.

[2] For two or more businesses located in a single building or within attached buildings and where the businesses share a common pedestrian entrance, an additional wall sign may be permitted, subject to the following:

[a] The sign shall be used only to identify and locate the businesses within;

[b] The message area shall not exceed 12 square feet;

[c] The sign shall be located immediately adjacent to the common entrance; and

[d] The additional freestanding sign permitted by special exception under Subsection F(2)(f)[1] is not used.

(4) Signs in platted ROW. Except as otherwise permitted below, no signs shall be permitted within any platted right-of-way:

(a) Special promotional banners that cross a public or private road, with a message area of 200 square feet or less, as approved by the Board of Selectmen for special events.

(b) Signs sanctioned by a municipal, state or federal signage program.

(5) Temporary event signage. In addition to signage otherwise permitted herein, temporary events may display up to 20 square feet of additional signage and that signage may be in the form of

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banners. Such signage shall comply with the following dimensional restrictions:

(a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;

(b) Maximum sign height shall be eight feet; and

(c) Maximum sign width shall be 10 feet.

(6) Special event signage. In addition to signage otherwise permitted herein, special events may display up to 40 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

(a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;

(b) Maximum sign height shall be eight feet; and

(c) Maximum sign width shall be 10 feet.

(7) Signs exempt from property line setbacks and no permit required:

(a) Signs with a message area of one square foot or less which bear only property numbers, post office numbers, names of occupants of the premises, other noncommercial identification, or with one of the following messages: "open"; "closed"; "vacancy"; or "no vacancy."

(b) Directional signs with a message area of four square feet or less, to indicate entrance and/or exit driveways.

(c) Business name and directional signs with a message area of three square feet or less which are located over doorways. Such signs may project from the wall surface.

(d) One portable A-frame sign per lot of record is permitted in the district. It may be displayed during business hours only, it shall have a message area of six square feet or less, no illumination of the sign is permitted, and no appendages to the sign are permitted.

(e) Window signs with a sign area that does not exceed 50% of the window area are permitted. Window signage that exceeds 50% of the window area is prohibited.

(f) Non-illuminated sign advertising the sale or lease of the premises upon which the sign is located, with a message area of 16 square feet or less. **[Amended 5-12-2020ATM by Art. 5]**

(g) Special promotional signs for special events as approved by the Board of Selectmen with a message area of 40 square feet or less.

(h) Directional signs to help locate facilities for disabled persons, with a message area not to exceed four square feet, as required for compliance with the Americans with Disabilities Act of 1990.[36]

(i) A home occupation may display a non-illuminated outdoor sign not exceeding three square feet in size.

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36. Editor's Note: See 42 U.S.C.A. § 12101 et seq.

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(8) Signs subject to property line setbacks and no permit required:

(a) Signs in parking lots to identify aisles, handicapped spaces, and reserved spaces.

(b) Signs which convey only a noncommercial message, including but not limited to ideological, political, social, cultural, or religious messages, with a message area of 12 square feet or less.

(9) Permit required for all other signs.

(a) Sign application process. Any action requiring a sign permit shall be permitted only upon the application to and approval of the Zoning Officer. Applications shall use the following process:

[1] An application form for each sign shall be completed and signed by the owner of the property.

[2] A complete application shall also include the following:

[a] Fee as set from time to time by the Board of Selectmen;

[b] Written description of the proposed type, size, height, setback, sign and supporting structure materials, and illumination of the sign;

[c] Statement specifically addressing compliance with off-site commercial sign restrictions; and

[d] Analysis regarding impact of safety, specifically addressing lighting/glare and line-of-sight blockage for vehicles and pedestrians.

[3] Upon receipt of a complete application, the Zoning Officer shall have up to 14 days to either approve or deny the application.

[4] If the application is denied, the Zoning Officer shall issue a written decision stating the reason(s) for denial.

[5] If the application is approved, the Zoning Officer shall issue an approval for the erection of a sign. The sign permit is valid for one year from date of approval. If the sign is not erected within one year, the permit shall expire.

(10) Design standards. The following design standards shall be required to ensure compliance with the intent of these regulations:

(a) Illumination. Signs shall not be illuminated from within; signs may be illuminated only by external light. Lighting shall be affixed to and, for dimensional purposes, considered part of the sign structure. Lighting shall be located, directed and/or shielded such that it only sheds light downward and is limited to the message display area. The lighting sources shall be of white light and be energy-efficient fixtures when possible. Fixtures shall be located, directed and/or shielded such that no direct light emissions are visible at any point along the property boundary, nor shall they be distracting to vehicular traffic.

(b) Neon. Neon lighting shall be prohibited.

(c) Motion. Moving signs, or signs which give the appearance of motion, shall be prohibited.

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(d) Flashing/blinking. Flashing, blinking, alternating-type or digital-type lighting such as a digital message board shall be prohibited.

(e) Structural supports and base. The support and base structure of a sign shall not exceed 50% of the maximum permitted message area of the sign. Such supports and base shall be measured on the single side or face having the greatest surface area. If the sign structural supports and base are made of wood, brick and/or stone, with only incidental use of other materials, the structure/base size limit shall be increased to 100% of the maximum permitted message area of the sign. The top of the supporting structure of a freestanding sign shall extend no farther above the top of the message area than 1/3 of the maximum permitted height of the message area.

(f) No sign shall project over a street or sidewalk, except for projecting signs as permitted herein.

(g) No sign shall be placed in such a position as to endanger vehicular or pedestrian traffic by obstructing a clear view, by causing confusion with government signs and signals, or by any other means.

(11) Movable signs. Movable signs shall be prohibited. No vehicle, including parts thereof, trailers, and other accessories, shall be used as a means of circumventing the purpose and intent of this chapter. A vehicle displaying a commercial message which is licensed, registered and inspected shall be exempt from these sign regulations if it is regularly and customarily used to transport persons or property for the business.

(12) Flags, banners, pennants, etc.

(a) In addition to the signs otherwise permitted by this chapter, there may be displayed, on any lot, up to three flags displaying any otherwise legal symbol, message or information, commercial or noncommercial; except that off-site commercial flags shall be restricted as set forth in this chapter. No such flag shall exceed 24 square feet measured by one face of the flag only. Any such flag shall be mounted directly to one flagpole. A "flagpole" is a pole intended and placed solely for the support and display of a flag or flags, and does not include utility poles, light poles, trees or other sign structures. All flagpoles shall be erected vertically, or within 45° of the vertical. No portion of any flagpole shall be sited within 10 feet of a property line. No flagpole shall extend more than 35 feet in height above grade or, if mounted on a building, 55 feet above the average finished grade of the building.

(b) Banners, feather flags, pennants, searchlights, twirling signs, balloons or other gas-filled figures, and other such materials shall be prohibited, except as specified herein.

(c) This subsection shall not be construed to prevent any sign otherwise permitted by this chapter, and which conforms to all sign requirements of this chapter, from taking the form of a flag or other fabric. Banners may be used to cover part or all of an existing freestanding, projecting or wall sign to advertise temporary events. The net effect of this activity shall not increase the message area of any permitted sign or signs.

(13) Maintenance. All surfaces and supporting structures of signs, whether erected prior to the effective date of this chapter or not, shall be maintained in a safe and sightly condition to the satisfaction of the Board of Selectmen or its authorized agent. A permit is required for any maintenance except the following: repainting; other surface renewal; or change of message on

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the same surface.

(14) Sign incentives. The purpose of these sign incentives is to reduce visual clutter and distraction from the natural environment caused by signs. This system offers design and size bonuses as a means of encouraging certain site and sign designs.

(a) Any freestanding, projecting or wall sign which conforms to all provisions of this chapter shall be permitted to utilize up to 20% of the maximum permitted message area for changeable copy.

(b) A freestanding sign which conforms to all provisions of this chapter shall be permitted to increase its message area by up to 20 square feet above that otherwise permitted under this chapter if the lot has at least 300 feet but less than 500 feet of frontage on a Class V or better road; or by up to 40 square feet above that otherwise permitted under this chapter if the lot has 500 feet or more of frontage on a Class V or better road. In no case, however, shall such increases cause any sign message area to exceed 80 square feet. The applicant shall submit a satisfactory written declaration, to be recorded at the Carroll County Registry of Deeds, in which the owner, its heirs, successors and assigns agree that, if the frontage of the property is subsequently reduced below that amount required for the bonus granted, the sign shall be removed or replaced with a sign which fully conforms with the provisions of this chapter; and that no subdivision of a lot shall be permitted unless a freestanding sign erected under this provision continues to conform to this provision; and such agreement must be legally enforceable by the Town of Conway.

(c) On a site where the freestanding sign conforms to all provisions of this chapter, the maximum wall sign message area permitted per Subsection F(3) may be increased by 50%.

G. Restrictions regarding home occupations. A home occupation is considered accessory to a residential use and shall not occupy an area greater than 50% of the total floor area of the residential unit or 1,500 square feet, whichever is less. Home occupations are subject to the following provisions and restrictions:

(1) The home occupation shall be carried on by persons who live in the principal residential unit full time. Two employees living off-premises are permitted.

(2) The home occupation shall be carried on within the principal residential unit or an approved accessory structure.

(3) Exterior storage of commercial vehicles, equipment or materials or variation from the residential character of the principal residential unit shall not be permitted.

(4) The home occupation shall create no unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or other nuisance or threat to the health of the abutters.

(5) Adequate off-street parking shall be provided.

(6) A home occupation shall not generate excessive traffic or traffic in greater volumes than would normally be expected in a residential neighborhood.

(7) A home occupation may display a sign conforming to Subsection F(7)(l) above.

(8) A change-of-use permit to operate a home occupation is required before startup of operation.

(9) Retail or wholesale sales are only permitted for those items raised or made on the premises.

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(10) A home occupation shall not be offensive to the character of the neighborhood or decrease abutting property values.

H. Farm and nursery stands. Farm and nursery stands for selling indigenous produce or plants are considered temporary structures and are permitted, provided that:

(1) Farm stands shall not exceed 1,200 square feet of gross floor area unless granted site plan review approval by the Planning Board.[37]

(2) Three off-street parking spaces shall be required to be provided for structures up to 100 square feet in size. Additional parking shall be required at the rate of one space per 200 square feet over 100 square feet.

(3) Wall signs shall not exceed 10 square feet in size. One portable A-frame sign per lot, not to exceed six square feet, shall be allowed to be displayed during business hours only.

(4) All structures, parking areas and signs shall meet the setback requirements established herein.

I. Yard sales. Yard sales shall be permitted, provided that no one household holds sales on more than six days per calendar year.

J. Mobile homes, travel trailers and recreational vehicles.

(1) A mobile home, travel trailer or recreational vehicle may be permitted on the site of a construction project for one year, provided that it is a necessary convenience for the construction project and that no public safety or health hazards shall be created.

(2) One travel trailer or recreational vehicle may be stored on a lot, provided that it is accessory to a permitted residential use on the subject property and not utilized for dwelling purposes. Travel trailers and recreational vehicles shall not be stored on vacant lots.

(3) All mobile homes permitted under this subsection must be connected to a sewerage system and water source, both meeting minimum local and State of New Hampshire standards, as applicable and then promulgated; such systems shall be approved by the Selectmen or their designated agent and be maintained so as not to cause a health or sanitation hazard.

K. Commercial amusements. Because the Town wishes to maintain a character which protects the long-term, high-quality environment, which will ultimately protect tourism in the valley, commercial amusements are hereby regulated to prevent adverse impacts on the Town's character and environment. All commercial amusements on a lot shall be located within an enclosed building, and the following shall apply:

(1) Commercial amusements may occupy 10% or less of the floor space of a business in any business district, by permit of the Zoning Officer and without site plan review by the Planning Board.

(2) Commercial amusements may occupy more than 10% of the floor space of a business in any business district, subject to the condition that no noise, light or other adverse impact outside the building shall be caused by the amusements or their use. Site plan review approval by the Planning Board shall be required.[38]

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37. Editor's Note: See Ch. 110, Site Plan Review.

38. Editor's Note: See Ch. 110, Site Plan Review.

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L. Outdoor commercial activities such as drive-up windows, remote outdoor speaker systems, interactive signs, menu boards or other similar devices with speakers, any of which operate in close proximity to residential property, constitute a nuisance due to unconfined noise and light, as well as operating hours that are not compatible with the residential environment.

(1) Commercial activities that operate drive-up windows, remote outdoor speakers, interactive signs, menu boards or other similar devices with speakers that permit customers or the general public to communicate with personnel within the commercial building or other location on the commercial property shall be at least 300 feet from the closer of the residential zone boundary or from the nearest residential property line, and if the time of operation begins before 9:00 a.m. or ends after 5:00 p.m. the separation distance shall be at least 600 feet. Substantial effective buffering against sound and light shall be provided in either case. These setbacks may be waived by the Planning Board during the site plan review process if the property abuts the Floodplain Conservation District and it can be shown that there will be no sound or light impact on residential use.

M. Outdoor dining establishments are permitted in the zoning district as an accessory to any approved restaurant use. **[Added 4-9-2024ATM by Art. 18]**

(1) An outdoor dining establishment application shall be accompanied by a plot plan, drawn to scale and dimensioned to included seating arrangements and immediately adjacent physical features such as fire hydrants, trees, structures, sidewalks, and pedestrian or vehicular travel ways. The plan shall be reviewed by the fire chief to ensure unimpeded pedestrian access. Outdoor dining areas shall be designed to maintain compliance with requirements of the American Disabilities Act (ADA).

(2) Establishments serving alcohol shall hold a valid liquor license from the State Liquor Commission prior to occupancy of the space. The license shall explicitly identify the outdoor dining area. Any permission granted by the Town of Conway will be subject to requirements of the State Liquor Commission.

(3) Outdoor dining areas must be maintained. A minimum of one trash receptacle shall be provided and identified on the plot plan. Plantings, barriers, and outdoor furniture shall be maintained and suitable for the intended purpose.

(4) Outdoor dining areas shall be separated from vehicular and pedestrian traffic. The separation must be adequate to ensure public safety; the minimum height of the barrier shall be 36 inches and the maximum height shall be 48 inches. Where no curbing or adequate vehicular separation exists, concreate or similar barriers shall be installed to prevent vehicular passage.

(5) Outdoor entertainment associated with the dining area must not be considered a nuisance as defined in site plan regulations, § 110-39 and shall adhere to § 97-6A, Noise restrictions.

(6) Occupancy limits shall be established by the Fire Chief. Applications must indicate that adequate parking can be provided as per site plan regulations, § 110-21.

(7) Dining areas and associated equipment are subject to all applicable setbacks.

(8) Restroom facilities shall be readily accessible.

(9) Outdoor dining applications may be reviewed as a small undertaking as per site plan regulations, § 110-4. Site plan review is required for any proposal which reduces total site greenspace to less than 30%, proposes a reduction of greenspace of greater than 2,000 square feet, or increases

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structural floor area by greater than 25% or 1,000 square feet, whichever is more restrictive.

N. Special exceptions. The following land uses shall be allowed if granted a special exception by the Zoning Board of Adjustment:

(1) Helicopters. A special exception may be granted for helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term nature. No approval for a special exception shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to Town residents and their property.

(2) Wireless communication facilities. Wireless communication facilities may be allowed by special exception in the Industrial-I (I1) District, on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:

(a) Since the visual impact of wireless communication facilities can transcend Town lines, communities that may be visually affected shall be formally notified of applications for such proposed facilities as projects having regional impact.

(b) The applicant must demonstrate that every reasonable effort has been made to cause the facility to have the least possible visual impact on the Town at large, including demonstration of realistic analysis of multiple sites, the need for the proposed height, and any impact on significant roadside viewpoints.

(c) Any wireless communication facility shall be designed to accommodate multiple providers of communication services and will only be approved under the condition that the primary developer of the facility will make the facility available upon reasonable terms by lease or other legal instruments to other wireless communication services.

(d) The Board of Adjustment may request detailed plans from the applicant and may, at the expense of the applicant, engage the services of professional consultants to review and comment on the proposal, and testimony of the applicants or their agents relating thereto.

(e) Major site plan approval must be obtained from the Planning Board.[39]

§ 190-23. Industrial-2 (I2) District. [Amended 4-14-2015 ATM by Art. 2, Art. 3, Art. 4; 4-12-2016 ATM by Art. 2, Art. 3, Art. 4; 4-11-2017 ATM by Art. 2]

The I2 District is primarily designed to accommodate a compatible mixture of uses that complement light industrial and limited commercial uses. Hotels, motels and large retail uses are specifically prohibited in this district. Except for lots identified as 1997 Tax Map 5-10, Lots 39-1 through 12-39-32 and caretaker's residences, residential uses are prohibited in this district. This district is not currently serviced by municipal water and sewer and cannot accommodate higher development densities. Uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries.

(1) The I2 District shall have the following bounds (Map and Parcel numbers refer to 2003 Town of Conway Tax Maps): commencing at a point on the thread of Mason Brook 4,000 feet

39. Editor's Note: See Ch. 110, Site Plan Review.

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northerly of the center line of East Conway Road; thence running southerly along the thread of Mason Brook to the one-hundred-year floodplain; thence running westerly along the one-hundred-year floodplain to the center line of Map 219, Parcel 211 (formerly the Maine Central Railroad); thence northwesterly along the center line of Map 219, Parcel 211 (formerly the Maine Central Railroad) to a point adjacent to the southeast corner of Map 252, Parcel 42; thence northerly along the eastern boundary of Map 252, Parcel 42 to the northwest corner of Map 252, Parcel 47; thence northerly along the western boundary of Map 252, Parcel 48 to a point 4,000 feet from the center line of East Conway Road; thence running generally easterly parallel with and 4,000 feet from East Conway Road to the point of commencement.

(2) District map. The I2 District Map is included as an attachment to this chapter.

B. Lot size and density.

(1) Minimum lot size in this district is two acres.

(2) Lots serviced by a municipal water system and municipal sewerage system shall have at least 1/2 acre for the first unit that may be located thereon and at least 10,000 square feet for each additional unit on the same lot.

(3) Lots serviced by a municipal water system shall have at least 1/2 acre for each unit that may be located thereon.

C. Frontage. All lots must front on a state or Town highway with a Class I, II, III, IV or V classification, a private road constructed to Town standards as required by the Planning Board or a Class VI road proposed to be improved as stipulated by the Planning Board. To qualify as frontage, the lot must have access rights to the subject highway or road. The minimum distance for frontage on a road shall be:

(1) One hundred fifty feet.

(2) One hundred feet for lots which front entirely on cul-de-sacs which meet the design requirements set forth in Chapter 130, Subdivision of Land, Article X, Detail #4, and approved by the Planning Board.

D. Setbacks. Within the I2 District, the minimum front setback shall be 50 feet and the minimum side or rear setback shall be 30 feet. Where the Industrial-2 District borders the RA District, or an industrial lot borders an existing residential use or borders an approved residential subdivision, a fifty-foot setback shall be required for that portion of the industrial lot.

E. Structure and building height. Structure height is restricted to achieve several purposes. The Town is economically dependent upon tourism and attracts visitors with its rural character and mountainous setting. Maintaining the traditional scale and style of structures aids in preserving the character of the Town. Peaked roofs are encouraged because it is the traditional roof style in the Town. (Care has been taken to prepare language which does not unduly encourage the use of flat-roof buildings.) The height restriction keeps structures and buildings below treetop level, which is typically from 60 feet to 100 feet for mature maple, beech, birch and pine trees. Structure height below treetop level helps maintain the rural atmosphere and preserve the viewsheds throughout the Town. In addition, the height limit minimizes difficulty in providing fire protection. The following shall apply throughout the Town:

(1) Structure height shall not exceed 55 feet for any structure, except wind energy systems permitted in accordance with Chapter 179 of the Conway Code.

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(2) Building height shall not exceed 45 feet.

(3) Church steeples may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:

(a) The space enclosed in the steeple is not usable floor space other than for the maintenance and structural purposes of the steeple.

(b) The height of the steeple is appropriate to the design and size of the church.

F. Signs. **[Amended 4-10-2018 ATM by Art. 3]**

(1) Sign content. The Town has no intention of restricting individual free speech, but the Town does recognize its right to place reasonable restrictions upon commercial speech. Further, the Town wishes to prevent excessive or unnecessary signage along road corridors. In keeping with this reasoning, off-site commercial signs shall be prohibited.

(2) Freestanding sign. There shall be no more than one freestanding sign per lot, except that where a lot fronts on two or more public rights-of-way and has two entrances at least 500 feet apart, two freestanding signs shall be permitted.

(a) The size of the message area shall not exceed 40 square feet.

(b) The height of the message area shall not exceed 15 feet above the undisturbed ground.

(c) The width of the message area shall not exceed 12 feet.

(d) Setbacks.

[1] The minimum setback shall be 25 feet from a platted right-of-way and five feet from all other property boundaries.

[2] Freestanding sign setbacks may be reduced to 10 feet from a platted right-of-way if the size of the message area is reduced to 30 square feet maximum. All of the dimensional requirements, except the size of the message area and the minimum front setback, shall be required of these signs.

(e) Projecting signs are not permitted in the I2 District.

(f) The Zoning Officer may approve the following: **[Amended 4-9-2019 ATM by Art. 3]**

[1] For two or more businesses located in a single building or within attached buildings and where the businesses share a common pedestrian entrance, an additional freestanding sign may be permitted for use as a directory sign, provided that the following conditions are met:

[a] The sign shall be used only to identify and locate businesses within;

[b] The message area shall not exceed 12 square feet;

[c] The height of the message area shall not exceed 20 feet above the undisturbed ground;

[d] The sign shall meet all setbacks; and

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[e] The additional wall sign permitted by special exception under Subsection F(3)(c)[2] is not used.

[2] Where existing buildings are set back from the right-of-way less than the setback required for freestanding signs in Subsection F(1), the right-of-way setback of the freestanding sign may be reduced from 25 feet to any lesser amount down to five feet, provided that the following conditions are met:

[a] The message area shall be reduced to not more than 20 square feet;

[b] The sign shall not obstruct vehicular or pedestrian traffic;

[c] The sign shall not obstruct the line-of-sight for traffic entering or exiting the site; and

[d] The sign shall not unduly obstruct the visibility of other signs or property in the area.

(g) One appendage may be attached to a freestanding or projecting sign, and the message area of this appendage shall be considered part of the total message area of the sign. No appendage shall be permitted on supports or directional signs.

(3) Wall sign. For lots without multiple commercial tenants, each lot shall be permitted one wall sign. For lots with multiple commercial tenants, each commercial tenant shall be permitted one wall sign. All wall signs shall be located on a wall which is common to both the interior and exterior of the business identified by the sign. The height of the message area shall not exceed the greater of 20 feet from the undisturbed ground or a height equal to 75% of the total height of the building, nor shall it exceed the height of the wall to which it is attached. The message area of the wall sign shall be based on the following formulas, subject to increase by bonus granted per Subsection F(12)(c).

(a) For floor areas up to and including 50,000 square feet, the maximum message area shall be calculated as follows: 20 + (total square feet floor area X 0.0016).

(b) If the floor area of the business is greater than 50,000 square feet, the maximum wall sign message area shall be 100 square feet. A business with a floor area greater than 50,000 square feet shall be permitted one additional wall sign if it has two or more exterior public or customer entrances, excluding emergency entrances, that are at least 20 feet apart. The message area of the second wall sign shall not exceed 20 square feet.

(c) The Zoning Officer may approve the following: **[Amended 4-9-2019 ATM by Art. 3]**

[1] For a major business in a shopping center or mall that does not have wall frontage facing its primary parking lot, one additional wall sign may be permitted, provided that the following conditions are met:

[a] The size of the message area shall not exceed 40 square feet;

[b] The sign shall be located on a wall facing the primary parking lot;

[c] Total wall sign area on the wall shall not exceed 10%; and

[d] All relevant height restrictions specified in Subsection F(2) apply.

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[2] For two or more businesses located in a single building or within attached buildings and where the businesses share a common pedestrian entrance, an additional wall sign may be permitted, subject to the following:

[a] The sign shall be used only to identify and locate the businesses within;

[b] The message area shall not exceed 12 square feet;

[c] The sign shall be located immediately adjacent to the common entrance; and

[d] The additional freestanding sign permitted by special exception under Subsection F(2)(f)[1] is not used.

(4) Signs in platted ROW. Except as otherwise permitted below, no signs shall be permitted within any platted right-of-way:

(a) Special promotional banners that cross a public or private road, with a message area of 200 square feet or less, as approved by the Board of Selectmen for special events.

(b) Signs sanctioned by a municipal, state or federal signage program.

(5) Temporary event signage. In addition to signage otherwise permitted herein, temporary events may display up to 20 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

(a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;

(b) Maximum sign height shall be eight feet; and

(c) Maximum sign width shall be 10 feet.

(6) Special event signage. In addition to signage otherwise permitted herein, special events may display up to 40 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

(a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;

(b) Maximum sign height shall be eight feet; and

(c) Maximum sign width shall be 10 feet.

(7) Signs exempt from property line setbacks and no permit required:

(a) Signs with a message area of one square foot or less which bear only property numbers, post office numbers, names of occupants of the premises, other noncommercial identification, or with one of the following messages: "open"; "closed"; "vacancy"; or "no vacancy."

(b) Directional signs with a message area of four square feet or less, to indicate entrance and/or exit driveways.

(c) Business name and directional signs with a message area of three square feet or less which are located over doorways. Such signs may project from the wall surface.

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(d) One portable A-frame sign per lot of record is permitted in the district. It may be displayed during business hours only, it shall have a message area of six square feet or less, no illumination of the sign is permitted, and no appendages to the sign are permitted.

(e) Window signs with a sign area that does not exceed 50% of the window area are permitted. Window signage that exceeds 50% of the window area is prohibited.

(f) Non-illuminated sign advertising the sale or lease of the premises upon which the sign is located, with a message area of 16 square feet or less. **[Amended 5-12-2020ATM by Art. 5]**

(g) Special promotional signs for special events as approved by the Board of Selectmen with a message area of 40 square feet or less.

(h) Directional signs to help locate facilities for disabled persons, with a message area not to exceed four square feet, as required for compliance with the Americans with Disabilities Act of 1990.[40]

(i) A home occupation may display a non-illuminated outdoor sign not exceeding three square feet in size.

(8) Signs subject to property line setbacks and no permit required:

(a) Signs in parking lots to identify aisles, handicapped spaces, and reserved spaces.

(b) Signs which convey only a noncommercial message, including but not limited to ideological, political, social, cultural, or religious messages, with a message area of 12 square feet or less.

(9) Permit required for all other signs.

(a) Sign application process. Any action requiring a sign permit shall be permitted only upon the application to and approval of the Zoning Officer. Applications shall use the following process:

[1] An application form for each sign shall be completed and signed by the owner of the property.

[2] A complete application shall also include the following:

[a] Fee as set from time to time by the Board of Selectmen;

[b] Written description of the proposed type, size, height, setback, sign and supporting structure materials, and illumination of the sign;

[c] Statement specifically addressing compliance with off-site commercial sign restrictions; and

[d] Analysis regarding impact of safety, specifically addressing lighting/glare and line-of-sight blockage for vehicles and pedestrians.

[3] Upon receipt of a complete application, the Zoning Officer shall have up to 14 days to either approve or deny the application.

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40. Editor's Note: See 42 U.S.C.A. § 12101 et seq.

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[4] If the application is denied, the Zoning Officer shall issue a written decision stating the reason(s) for denial.

[5] If the application is approved, the Zoning Officer shall issue an approval for the erection of a sign. The sign permit is valid for one year from date of approval. If the sign is not erected within one year, the permit shall expire.

(10) Design standards. The following design standards shall be required to ensure compliance with the intent of these regulations:

(a) Illumination. Signs shall not be illuminated from within; signs may be illuminated only by external light. Lighting shall be affixed to and, for dimensional purposes, considered part of the sign structure. Lighting shall be located, directed and/or shielded such that it only sheds light downward and is limited to the message display area. The lighting sources shall be of white light and be energy-efficient fixtures when possible. Fixtures shall be located, directed and/or shielded such that no direct light emissions are visible at any point along the property boundary, nor shall they be distracting to vehicular traffic.

(b) Neon. Neon lighting shall be prohibited.

(c) Motion. Moving signs, or signs which give the appearance of motion, shall be prohibited.

(d) Flashing/blinking. Flashing, blinking, alternating-type or digital-type lighting such as a digital message board shall be prohibited.

(e) Structural supports and base. The support and base structure of a sign shall not exceed 50% of the maximum permitted message area of the sign. Such supports and base shall be measured on the single side or face having the greatest surface area. If the sign structural supports and base are made of wood, brick and/or stone, with only incidental use of other materials, the structure/base size limit shall be increased to 100% of the maximum permitted message area of the sign. The top of the supporting structure of a freestanding sign shall extend no farther above the top of the message area than 1/3 of the maximum permitted height of the message area.

(f) No sign shall project over a street or sidewalk, except for projecting signs as permitted herein.

(g) No sign shall be placed in such a position as to endanger vehicular or pedestrian traffic by obstructing a clear view, by causing confusion with government signs and signals, or by any other means.

(11) Movable signs. Movable signs shall be prohibited. No vehicle, including parts thereof, trailers, and other accessories, shall be used as a means of circumventing the purpose and intent of this chapter. A vehicle displaying a commercial message which is licensed, registered and inspected shall be exempt from these sign regulations if it is regularly and customarily used to transport persons or property for the business.

(12) Flags, banners, pennants, etc.

(a) In addition to the signs otherwise permitted by this chapter, there may be displayed, on any lot, up to three flags displaying any otherwise legal symbol, message or information, commercial or noncommercial; except that off-site commercial flags shall be restricted as set forth in this chapter. No such flag shall exceed 24 square feet measured by one face of

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the flag only. Any such flag shall be mounted directly to one flagpole. A "flagpole" is a pole intended and placed solely for the support and display of a flag or flags, and does not include utility poles, light poles, trees or other sign structures. All flagpoles shall be erected vertically, or within 45° of the vertical. No portion of any flagpole shall be sited within 10 feet of a property line. No flagpole shall extend more than 35 feet in height above grade or, if mounted on a building, 55 feet above the average finished grade of the building.

(b) Banners, feather flags, pennants, searchlights, twirling signs, balloons or other gas-filled figures, and other such materials shall be prohibited, except as specified herein.

(c) This subsection shall not be construed to prevent any sign otherwise permitted by this chapter, and which conforms to all sign requirements of this chapter, from taking the form of a flag or other fabric. Banners may be used to cover part or all of an existing freestanding, projecting or wall sign to advertise temporary events. The net effect of this activity shall not increase the message area of any permitted sign or signs.

(13) Maintenance. All surfaces and supporting structures of signs, whether erected prior to the effective date of this chapter or not, shall be maintained in a safe and sightly condition to the satisfaction of the Board of Selectmen or its authorized agent. A permit is required for any maintenance except the following: repainting; other surface renewal; or change of message on the same surface.

(14) Sign incentives. The purpose of these sign incentives is to reduce visual clutter and distraction from the natural environment caused by signs. This system offers design and size bonuses as a means of encouraging certain site and sign designs.

(a) Any freestanding, projecting or wall sign which conforms to all provisions of this chapter shall be permitted to utilize up to 20% of the maximum permitted message area for changeable copy.

(b) A freestanding sign which conforms to all provisions of this chapter shall be permitted to increase its message area by up to 20 square feet above that otherwise permitted under this chapter if the lot has at least 300 feet but less than 500 feet of frontage on a Class V or better road; or by up to 40 square feet above that otherwise permitted under this chapter if the lot has 500 feet or more of frontage on a Class V or better road. In no case, however, shall such increases cause any sign message area to exceed 80 square feet. The applicant shall submit a satisfactory written declaration, to be recorded at the Carroll County Registry of Deeds, in which the owner, its heirs, successors and assigns agree that, if the frontage of the property is subsequently reduced below that amount required for the bonus granted, the sign shall be removed or replaced with a sign which fully conforms with the provisions of this chapter; and that no subdivision of a lot shall be permitted unless a freestanding sign erected under this provision continues to conform to this provision; and such agreement must be legally enforceable by the Town of Conway.

(c) On a site where the freestanding sign conforms to all provisions of this chapter, the maximum wall sign message area permitted per Subsection F(3) may be increased by 50%.

G. Restrictions regarding home occupations. A home occupation is considered accessory to a residential use and shall not occupy an area greater than 50% of the total floor area of the residential unit or 1,500 square feet, whichever is less. Home occupations are subject to the following provisions and restrictions:

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(1) The home occupation shall be carried on by persons who live in the principal residential unit full time. Two employees living off-premises are permitted.

(2) The home occupation shall be carried on within the principal residential unit or an approved accessory structure.

(3) Exterior storage of commercial vehicles, equipment or materials or variation from the residential character of the principal residential unit shall not be permitted.

(4) The home occupation shall create no unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or other nuisance or threat to the health of the abutters.

(5) Adequate off-street parking shall be provided.

(6) A home occupation shall not generate excessive traffic or traffic in greater volumes than would normally be expected in a residential neighborhood.

(7) A home occupation may display a sign conforming to Subsection F(7)(l) above.

(8) A change-of-use permit to operate a home occupation is required before startup of operation.

(9) Retail or wholesale sales are only permitted for those items raised or made on the premises.

(10) A home occupation shall not be offensive to the character of the neighborhood or decrease abutting property values.

H. Farm and nursery stands. Farm and nursery stands for selling indigenous produce or plants are considered temporary structures and are permitted, provided that:

(1) Farm stands shall not exceed 1,200 square feet of gross floor area unless granted site plan review approval by the Planning Board.[41]

(2) Three off-street parking spaces shall be required to be provided for structures up to 100 square feet in size. Additional parking shall be required at the rate of one space per 200 square feet over 100 square feet.

(3) Wall signs shall not exceed 10 square feet in size. One portable A-frame sign per lot, not to exceed six square feet, shall be allowed to be displayed during business hours only.

(4) All structures, parking areas and signs shall meet the setback requirements established herein.

I. Yard sales. Yard sales shall be permitted, provided that no one household holds sales on more than six days per calendar year.

J. Mobile homes, travel trailers and recreational vehicles.

(1) A mobile home, travel trailer or recreational vehicle may be permitted on the site of a construction project for one year, provided that it is a necessary convenience for the construction project and that no public safety or health hazards shall be created.

(2) One travel trailer or recreational vehicle may be stored on a lot, provided that it is accessory to a permitted residential use on the subject property and not utilized for dwelling purposes. Travel trailers and recreational vehicles shall not be stored on vacant lots.

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41. Editor's Note: See Ch. 110, Site Plan Review.

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(3) All mobile homes permitted under this subsection must be connected to a sewerage system and water source, both meeting minimum local and State of New Hampshire standards, as applicable and then promulgated; such systems shall be approved by the Selectmen or their designated agent and be maintained so as not to cause a health or sanitation hazard.

K. Commercial amusements. Because the Town wishes to maintain a character which protects the long-term, high-quality environment, which will ultimately protect tourism in the valley, commercial amusements are hereby regulated to prevent adverse impacts on the Town's character and environment. All commercial amusements on a lot shall be located within an enclosed building, and the following shall apply:

(1) Commercial amusements may occupy 10% or less of the floor space of a business in any business district, by permit of the Zoning Officer and without site plan review by the Planning Board.

(2) Commercial amusements may occupy more than 10% of the floor space of a business in any business district, subject to the condition that no noise, light or other adverse impact outside the building shall be caused by the amusements or their use. Site plan review approval by the Planning Board shall be required.[42]

L. Outdoor commercial activities such as drive-up windows, remote outdoor speaker systems, interactive signs, menu boards or other similar devices with speakers, any of which operate in close proximity to residential property, constitute a nuisance due to unconfined noise and light, as well as operating hours that are not compatible with the residential environment.

(1) Commercial activities that operate drive-up windows, remote outdoor speakers, interactive signs, menu boards or other similar devices with speakers that permit customers or the general public to communicate with personnel within the commercial building or other location on the commercial property shall be at least 300 feet from the closer of the residential zone boundary or from the nearest residential property line, and if the time of operation begins before 9:00 a.m. or ends after 5:00 p.m. the separation distance shall be at least 600 feet. Substantial effective buffering against sound and light shall be provided in either case. These setbacks may be waived by the Planning Board during the site plan review process if the property abuts the Floodplain Conservation District and it can be shown that there will be no sound or light impact on residential use.

M. Outdoor dining establishments are permitted in the zoning district as an accessory to any approved restaurant use. **[Added 4-9-2024ATM by Art. 18]**

(1) An outdoor dining establishment application shall be accompanied by a plot plan, drawn to scale and dimensioned to included seating arrangements and immediately adjacent physical features such as fire hydrants, trees, structures, sidewalks, and pedestrian or vehicular travel ways. The plan shall be reviewed by the fire chief to ensure unimpeded pedestrian access. Outdoor dining areas shall be designed to maintain compliance with requirements of the American Disabilities Act (ADA).

(2) Establishments serving alcohol shall hold a valid liquor license from the State Liquor Commission prior to occupancy of the space. The license shall explicitly identify the outdoor dining area. Any permission granted by the Town of Conway will be subject to requirements of the State Liquor Commission.

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42. Editor's Note: See Ch. 110, Site Plan Review.

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(3) Outdoor dining areas must be maintained. A minimum of one trash receptacle shall be provided and identified on the plot plan. Plantings, barriers, and outdoor furniture shall be maintained and suitable for the intended purpose.

(4) Outdoor dining areas shall be separated from vehicular and pedestrian traffic. The separation must be adequate to ensure public safety; the minimum height of the barrier shall be 36 inches and the maximum height shall be 48 inches. Where no curbing or adequate vehicular separation exists, concreate or similar barriers shall be installed to prevent vehicular passage.

(5) Outdoor entertainment associated with the dining area must not be considered a nuisance as defined in site plan regulations, § 110-39 and shall adhere to § 97-6A, Noise restrictions.

(6) Occupancy limits shall be established by the Fire Chief. Applications must indicate that adequate parking can be provided as per site plan regulations, § 110-21.

(7) Dining areas and associated equipment are subject to all applicable setbacks.

(8) Restroom facilities shall be readily accessible.

(9) Outdoor dining applications may be reviewed as a small undertaking as per site plan regulations, § 110-4. Site plan review is required for any proposal which reduces total site greenspace to less than 30%, proposes a reduction of greenspace of greater than 2,000 square feet, or increases structural floor area by greater than 25% or 1,000 square feet, whichever is more restrictive.

N. Special exceptions. The following land uses shall be allowed if granted a special exception by the Zoning Board of Adjustment:

(1) Helicopters. A special exception may be granted for helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term nature. No approval for a special exception shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to Town residents and their property.

(2) Wireless communication facilities. Wireless communication facilities may be allowed by special exception in the Industrial-2 (I2) District, on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:

(a) Since the visual impact of wireless communication facilities can transcend Town lines, communities that may be visually affected shall be formally notified of applications for such proposed facilities as projects having regional impact.

(b) The applicant must demonstrate that every reasonable effort has been made to cause the facility to have the least possible visual impact on the Town at large, including demonstration of realistic analysis of multiple sites, the need for the proposed height, and any impact on significant roadside viewpoints.

(c) Any wireless communication facility shall be designed to accommodate multiple providers of communication services and will only be approved under the condition that the primary developer of the facility will make the facility available upon reasonable terms by lease or other legal instruments to other wireless communication services.

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(d) The Board of Adjustment may request detailed plans from the applicant and may, at the expense of the applicant, engage the services of professional consultants to review and comment on the proposal, and testimony of the applicants or their agents relating thereto.

(e) Major site plan approval must be obtained from the Planning Board.

§ 190-24. Recreational Resort (RR) District.

The RR District is primarily designed facilitate convention centers, sports and athletic facilities, visual and performing arts, residential and agricultural uses. Excavations are prohibited in this district. The district is generally without municipal sewer service and is not yet appropriate for development at higher densities. Land uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries and map.

(1) District boundaries: Beginning at a point on the southerly side line of Hurricane Mountain Road, where the same is intersected by the easterly line of the Kearsarge Lighting Precinct; and from said beginning point running thence southerly and westerly along the Kearsarge Lighting Precinct boundary to a point where the same is intersected by the easterly line of Old Bartlett Road; thence southerly along the easterly line of Old Bartlett Road to a point on the southerly side of Skimobile Road; thence southerly on the same course as the easterly line of Old Bartlett Road to the easterly line of the power transmission-line right-of-way;

thence southerly along the easterly line of said power-transmission-line right-of-way to the southerly side of Thompson Road; thence S 72 50' E along the southerly side of Thompson Road to Thompson Road right-of-way monument No. 9; thence continuing S 72 50' E to a point 100 feet easterly of the height of land which extends between Middle Mountain, Black Cap and Hurricane Mountain; thence in a general northerly direction, parallel with said height of land and 100 feet easterly thereof to southerly side of Hurricane Mountain Road; thence westerly along the southerly side of Hurricane Mountain Road to the point and place of beginning.

(2) District map. The RR District Map is included as an attachment to this chapter.

B. Lot size and density.

(1) Lots serviced by a municipal water system and municipal sewerage system shall have at least 1/2 acre for the first unit that may be located thereon and at least 10,000 square feet for each additional unit on the same lot.

(2) Lots serviced by a municipal water system shall have at least 1/2 acre for each unit that may be located thereon.

(3) All other lots shall have at least one acre for each unit that may be located thereon.

(4) Special exceptions. **[Amended 4-10-2018 ATM by Art. 2]**

(a) In order to preserve and safeguard Conway's older homes, but also allow for their conversion to multifamily dwellings, the Zoning Board of Adjustment may grant special exceptions for residential structures and accessory structures on the same conforming lot, provided that:

[1] Substantially all of the structure was constructed prior to 1930.

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[2] Modification of the interior does not exceed four units.

[3] No significant changes to the exterior lines or architectural detail are made which would diminish the historical or architectural heritage of the structure.

[4] Adequate area is available for parking and sewage disposal.

[5] Accessory structures must have at least 300 square feet of living space per unit suitable for conversion to a dwelling unit and not conflict with the purpose and intent of this section.

(b) In order to help provide year-round housing, one accessory dwelling unit shall be permitted without a special exception and by right by the Building Inspector as an accessory to a single-family dwelling on any size lot, subject to the enumerated conditions below. **[Amended 4-9-2019 ATM by Art. 2; 4-13-2021 ATM by Art. 5; 4-9-2024ATM by Art. 21]**

The Zoning Board of Adjustment may grant a special exception for a second accessory dwelling unit as an accessory use to a single-family dwelling, or one accessory dwelling unit as an accessory use to a duplex, on any size lot, subject to the following conditions:

[1] The accessory dwelling unit is designed to ensure architectural compatibility with the neighborhood.

[2] Sufficient parking is located on site with a minimum of one space per accessory dwelling unit.

[3] The accessory dwelling unit is subject to all other applicable zoning regulations including setbacks, elevations, and overlay district restrictions.

[4] The primary single-family dwelling, duplex, and accessory dwelling units, as applicable shall be used for long-term residency, and short-term transient occupancy of any dwelling unit is prohibited. The applicable occupancy restrictions shall be recorded at the Carroll County Registry of Deeds.

[5] A second accessory dwelling unit associated with a single-family dwelling and the sole accessory dwelling unit associated with a duplex shall be reserved as an affordable unit for an eligible renter as defined in § 195-8 of the Town of Conway Zoning Ordinance. The applicable affordability restrictions shall be recorded at the Carroll County Registry of Deeds.

[6] Adequate water supply and sewage disposal for an accessory dwelling unit shall be provided in accordance with RSA 485-A:38.

[7] Site plan approval shall not be required or be a condition to the Zoning Board of Adjustment granting a special exception under this subsection.

C. Frontage. All lots must front on a state or Town highway with a Class I, II, III, IV or V classification, a private road constructed to Town standards as required by the Planning Board or a Class VI road proposed to be improved as stipulated by the Planning Board. To qualify as frontage, the lot must have access rights to the subject highway or road. The minimum distance for frontage on a road shall be:

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(1) One hundred fifty feet.

(2) One hundred feet for lots which front entirely on cul-de-sacs which meet the design requirements set forth in Chapter 130, Subdivision of Land, Article X, Detail #4, and approved by the Planning Board.

D. Setbacks. The minimum front setback shall be 25 feet and the minimum side or back setback shall be 15 feet.

E. Structure and building height. Structure height is restricted to achieve several purposes. The Town is economically dependent upon tourism and attracts visitors with its rural character and mountainous setting. Maintaining the traditional scale and style of structures aids in preserving the character of the Town. Peaked roofs are encouraged because it is the traditional roof style in the Town. (Care has been taken to prepare language which does not unduly encourage the use of flat-roof buildings.) The height restriction keeps structures and buildings below treetop level, which is typically from 60 feet to 100 feet for mature maple, beech, birch and pine trees. Structure height below treetop level helps maintain the rural atmosphere and preserve the viewsheds throughout the Town. In addition, the height limit minimizes difficulty in providing fire protection. The following shall apply throughout the Town:

(1) Structure height shall not exceed 55 feet for any structure, except wind energy systems permitted in accordance with Chapter 179 of the Conway Code. **[Amended 4-11-2017 ATM by Art. 2]**

(2) Building height shall not exceed 45 feet.

(3) Wireless communication facilities may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that the height is necessary to fulfill its function.

(4) Church steeples may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:

(a) The space enclosed in the steeple is not usable floor space other than for the maintenance and structural purposes of the steeple.

(b) The height of the steeple is appropriate to the design and size of the church.

F. Signs. **[Amended 4-14-2015 ATM by Arts. 2, 3 and 4; 4-12-2016 ATM by Arts. 2 and 4; 4-11-2017 ATM by Art. 2; 4-10-2018 ATM by Art. 3]**

(1) Sign setbacks. Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 15 feet from all other property boundaries.

(2) Each lot in the district shall be entitled to 12 square feet of commercial or nonresidential sign message area.

(3) Maximum sign height shall be eight feet.

(4) In addition to the above signage provisions, every lot shall be entitled to one sign not exceeding one square foot in surface area placed in any of the following locations:

(a) On the front of any building or residence;

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(b) On each side of an authorized USPS mailbox; or

(c) On a post which measures no more than 48 inches in height and four inches in width.

(5) Sign content. The Town has no intention of restricting individual free speech, but the Town does recognize its right to place reasonable restrictions upon commercial speech. Further, the Town wishes to prevent excessive or unnecessary signage along road corridors. In keeping with this reasoning, off-site commercial signs shall be prohibited.

(6) Signs in platted ROW. Except as otherwise permitted below, no signs shall be permitted within any platted right-of-way:

(a) Special promotional banners that cross a public or private road, with a message area of 200 square feet or less, as approved by the Board of Selectmen for special events.

(b) Signs sanctioned by a municipal, state or federal signage program.

(7) Temporary event signage. In addition to signage otherwise permitted herein, temporary events may display up to 20 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

(a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;

(b) Maximum sign height shall be eight feet; and

(c) Maximum sign width shall be 10 feet.

(8) Special event signage. In addition to signage otherwise permitted herein, special events may display up to 40 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

(a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;

(b) Maximum sign height shall be eight feet; and

(c) Maximum sign width shall be 10 feet.

(9) Permit required for all nonresidential signs exceeding six square feet in message area.

(a) Sign application process. Any action requiring a sign permit shall be permitted only upon the application to, and approval of, the Zoning Officer. Applications shall use the following process:

[1] An application form for each sign shall be completed and signed by the owner of the property.

[2] A complete application shall also include the following:

[a] Fee as set from time to time by the Board of Selectmen;

[b] Written description of the proposed type, size, height, setback, sign and supporting structure materials, and illumination of the sign;

[c] Statement specifically addressing compliance with off-site commercial sign

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restrictions; and

[d] Analysis regarding impact of safety, specifically addressing lighting/glare and line-of-sight blockage for vehicles and pedestrians.

[3] Upon receipt of a complete application, the Zoning Officer shall have up to 14 days to either approve or deny the application.

[4] If the application is denied, the Zoning Officer shall issue a written decision stating the reason(s) for denial.

[5] If the application is approved, the Zoning Officer shall issue an approval for the erection of a sign. The sign permit is valid for one year from date of approval. If the sign is not erected within one year, the permit shall expire.

(10) Design standards. The following design standards shall be required to ensure compliance with the intent of these regulations:

(a) Illumination. Signs shall not be illuminated from within; signs may be illuminated only by external light. Lighting shall be affixed to and, for dimensional purposes, considered part of the sign structure. Lighting shall be located, directed and/or shielded such that it only sheds light downward and is limited to the message display area. The lighting sources shall be of white light and be energy-efficient fixtures when possible. Fixtures shall be located, directed and/or shielded such that no direct light emissions are visible at any point along the property boundary, nor shall they be distracting to vehicular traffic.

(b) Neon. Neon lighting shall be prohibited.

(c) Motion. Moving signs, or signs which give the appearance of motion, shall be prohibited.

(d) Flashing/blinking. Flashing, blinking, alternating-type or digital-type lighting, such as a digital message board, shall be prohibited.

(e) Structural supports and base. The support and base structure of a sign shall not exceed 50% of the maximum permitted message area of the sign. Such supports and base shall be measured on the single side or face having the greatest surface area. If the sign structural supports and base are made of wood, brick and/or stone, with only incidental use of other materials, the structure/base size limit shall be increased to 100% of the maximum permitted message area of the sign. The top of the supporting structure of a freestanding sign shall extend no farther above the top of the message area than 1/3 of the maximum permitted height of the message area.

(f) No sign shall project over a street or sidewalk, except for projecting signs as permitted herein.

(g) No sign shall be placed in such a position as to endanger vehicular or pedestrian traffic by obstructing a clear view, by causing confusion with government signs and signals, or by any other means.

(11) Movable signs. Movable signs shall be prohibited. No vehicle, including parts thereof, trailers, and other accessories, shall be used as a means of circumventing the purpose and intent of this chapter. A vehicle displaying a commercial message which is licensed, registered and inspected shall be exempt from these sign regulations if it is regularly and customarily used to transport

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persons or property for the business.

(12) Flags, banners, pennants, etc.

(a) In addition to the signs otherwise permitted by this chapter, there may be displayed, on any lot, up to three flags displaying any otherwise legal symbol, message or information, commercial or noncommercial; except that off-site commercial flags shall be restricted as set forth in this chapter. No such flag shall exceed 24 square feet measured by one face of the flag only. Any such flag shall be mounted directly to one flagpole. A "flagpole" is a pole intended and placed solely for the support and display of a flag or flags, and does not include utility poles, light poles, trees or other sign structures. All flagpoles shall be erected vertically or within 45° of the vertical. No portion of any flagpole shall be sited within 10 feet of a property line. No flagpole shall extend more than 35 feet in height above grade or, if mounted on a building, 55 feet above the average finished grade of the building.

(b) Banners, feather flags, pennants, searchlights, twirling signs, balloons or other gas-filled figures, and other such materials shall be prohibited, except as specified herein.

(c) This subsection shall not be construed to prevent any sign otherwise permitted by this chapter, and which conforms to all sign requirements of this chapter, from taking the form of a flag or other fabric. Banners may be used to cover part or all of an existing freestanding, projecting or wall sign to advertise temporary events. The net effect of this activity shall not increase the message area of any permitted sign or signs.

(13) Maintenance. All surfaces and supporting structures of signs, whether erected prior to the effective date of this chapter or not, shall be maintained in a safe and sightly condition to the satisfaction of the Board of Selectmen or its authorized agent. A permit is required for any maintenance except the following: repainting; other surface renewal; or change of message on the same surface.

G. Restrictions regarding home occupations. A home occupation is considered accessory to a residential use and shall not occupy an area greater than 50% of the total floor area of the residential unit or 1,500 square feet, whichever is less. Home occupations are subject to the following provisions and restrictions:

(1) The home occupation shall be carried on by persons who live in the principal residential unit full time. Two employees living off-premises are permitted.

(2) The home occupation shall be carried on within the principal residential unit or an approved accessory structure.

(3) Exterior storage of commercial vehicles, equipment or materials or variation from the residential character of the principal residential unit shall not be permitted.

(4) The home occupation shall create no unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or other nuisance or threat to the health of the abutters.

(5) Adequate off-street parking shall be provided.

(6) A home occupation shall not generate excessive traffic or traffic in greater volumes than would normally be expected in a residential neighborhood.

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(7) A home occupation may display a sign conforming to Subsection F(10)(l) above. **[Amended 4-11-2017 ATM by Art. 2]**

(8) A change-of-use permit to operate a home occupation is required before startup of operation.

(9) Retail or wholesale sales are only permitted for those items raised or made on the premises.

(10) A home occupation shall not be offensive to the character of the neighborhood or decrease abutting property values.

H. Farm and nursery stands. Farm and nursery stands for selling indigenous produce or plants are considered temporary structures and are permitted, provided that:

(1) Farm stands shall not exceed 1,200 square feet of gross floor area unless granted site plan review approval by the Planning Board.[43]

(2) Three off-street parking spaces shall be required to be provided for structures up to 100 square feet in size. Additional parking shall be required at the rate of one space per 200 square feet over 100 square feet.

(3) Wall signs shall not exceed 10 square feet in size. One portable A-frame sign per lot, not to exceed six square feet, shall be allowed to be displayed during business hours only.

(4) All structures, parking areas and signs shall meet the setback requirements established herein.

I. Yard sales. Yard sales shall be permitted, provided that no one household holds sales on more than six days per calendar year. **[Amended 4-11-2017 ATM by Art. 2]**

J. Mobile homes, travel trailers and recreational vehicles. One mobile home used as a residential unit is permitted on a lot in the district. **[Amended 4-12-2016 ATM by Art. 3; 4-11-2017 ATM by Art. 2]**

(1) A mobile home, travel trailer or recreational vehicle may be permitted on the site of a construction project for one year, provided that it is a necessary convenience for the construction project and that no public safety or health hazards shall be created.

(2) One travel trailer or recreational vehicle may be stored on a lot, provided that it is accessory to a permitted residential use on the subject property and not utilized for dwelling purposes. Travel trailers and recreational vehicles shall not be stored on vacant lots.

(3) All mobile homes permitted under this subsection must be connected to a sewerage system and water source, both meeting minimum local and State of New Hampshire standards, as applicable and then promulgated; such systems shall be approved by the Selectmen or their designated agent and be maintained so as not to cause a health or sanitation hazard.

K. Special exceptions. The following land uses shall be allowed if granted a special exception by the Zoning Board of Adjustment:

(1) Nursing homes. In order to protect existing property owners in the district against a new use nearby which may be incompatible or undesirable but also allow for nursing homes with acceptable accessory commercial uses such as gift shops, flower shops and candy shops, which are restricted to on-premises facilities, the Zoning Board of Adjustment may grant a special exception for nursing homes in the district, provided that: **[Amended 4-11-2017 ATM by Art.**

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43. Editor's Note: See Ch. 110, Site Plan Review.

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(a) The nursing home development is architecturally compatible with the surrounding neighborhood;

(b) Traffic access to and from the development will not alter the character of the neighborhood;

(c) Lighting will be of such design as not to disturb the tranquility of the neighborhood;

(d) Outpatient and day-care facilities operate during reasonable hours;

(e) The facility will not operate as a crisis center for drug addiction, alcoholism or the mentally disturbed;

(f) Accessory commercial space on the premises for the sole purpose of the nursing home occupants and employees will be operated and managed by the nursing home owners, and the same space will not be leased to outside businesses;

(g) The nursing home structure shall not exceed two stories in height above grade;

(h) The maximum density allowed is 16 beds per acre; and

(i) The land to be developed for such use contains no less than five acres.

(2) Charitable fund-raising events. A special exception may be granted for charitable fund-raising events operated by or on behalf of nonprofit organizations having a federal tax exemption, provided that:

(a) The event is not offensive to the character of the neighborhood;

(b) The event is for a brief, predetermined length or duration not to exceed three consecutive days; and

(c) The event complies with the guidelines and procedures for review of license applications for special events in the Town of Conway, as prescribed by the Conway Board of Selectmen.[44]

(3) Private educational facilities. A special exception may be granted to permit private educational facilities, with or without accessory uses, provided that:

(a) Traffic access to and from the facility will not alter the character of the abutting residential neighborhood;

(b) The development is architecturally compatible with the height, scale, color and detail of the surrounding residential neighborhood; and

(c) The proposed facility will not adversely affect abutting properties by reason of undue light, noise, density of use, or other nuisance.

(4) Day-care centers. A special exception may be granted to home-based day-care centers serving seven people to 15 people and other non-home-based centers, regardless of the number of people served, provided that:

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

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(a) Traffic access to and from the development will not alter the character of the abutting residential neighborhood;

(b) The development is architecturally compatible with the height, scale, color and detail of the surrounding residential neighborhood;

(c) Site plan approval or a site plan exemption is granted by the Planning Board; and

(d) The size of the lot is appropriate to provide green space and play areas.

(5) Commercial golf facilities. A special exception may be granted for traditionally full-sized golf courses and those accessory uses traditionally associated with this primary use, such as a clubhouse with a lounge and restaurant facility, professional shop, golf practice range, tennis courts and swimming pools, but not to include miniature golf, provided that:

(a) The specific site is an appropriate location for such use, not only in context with the land to be dedicated to such use but in context with the surrounding land uses as well. The applicant shall dedicate a specific parcel(s) to the proposed facility, which shall not be used for residential density. In order to determine this, the following criteria shall be evaluated:

[1] Property values. The applicant shall present information by a certified appraiser indicating that there will be no negative impact on abutting properties as a result of the proposed special exception;

[2] Traffic. No traffic hazard will be created and traffic access will not alter the character of the neighborhood. The main access point shall be from an arterial or collector and not from neighborhood streets. The Zoning Board of Adjustment may consider the comments of the Town Planning Director in evaluating the traffic study. A traffic study shall be completed that shows the impact of the proposed development in its entirety on the nearest signalized intersection(s). For intersections that are of an overall level of service (herein "LOS") C or better, the LOS at the nearest signalized intersection(s) shall not fall below LOS C during the a.m. and p.m. peak hours as a result of the development. If LOS C cannot be maintained, the applicant shall make such changes as are necessary to bring the intersection to LOS C, provided that such improvements are acceptable to the Zoning Board of Adjustment. The applicant may choose to reduce the development so as to produce an acceptable LOS. If the LOS is already below C (D, E or F), the project shall only be approved if the LOS is brought up to D. The applicant may choose to reduce the development so as to produce an acceptable LOS; **[Amended 4-11-2017 ATM by Art. 2]**

[3] Nuisances; hazards. The Zoning Board of Adjustment shall review the operation of the development, including noise, odors and any hazards associated with the use and location. If the Zoning Board of Adjustment determines that any hazards or nuisances cannot be overcome and are not customarily found in a residential neighborhood, the proposed use shall be denied;

[4] Adequacy of private/municipal facilities. The Zoning Board of Adjustment shall review the proposed facilities, including drainage, sewer/septic, water, electric and other utilities, to ensure adequate provisions to meet the needs of the proposed development. It may consider the opinion of the Town Engineer in making this determination;

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[5] Design and architecture. The design and architecture of the proposed structure shall be reviewed by the Zoning Board of Adjustment to determine its compatibility with abutting residential structures. The scale, height, color and detail shall be similar to and/or aesthetically compatible with residential structures;

[6] Lighting. The lighting plan shall be submitted to the Zoning Board of Adjustment for approval. No direct glare shall be permitted. Parking areas and walkways may be illuminated by luminaires so hooded or shielded as to not extend significantly beyond the parking and walkway areas;

[7] Hours of operation. Hours of operation will be appropriate so as to not interfere with the abutting residential neighborhood by means of excess traffic in off-peak hours, unscreened lighting that disturbs residential uses and other factors that make the facility different from a residential neighborhood;

[8] Buffer. A perimeter buffer area adjacent to all abutting properties shall be left undisturbed if wooded and, if open, shall be planted with dense evergreen plantings. It shall be 100 feet in depth at a minimum unless a greater buffer is required by the Zoning Board of Adjustment due to the intensity of the use and interference with adjacent properties; and **[Amended 4-11-2017 ATM by Art. 2]**

[9] Site plan. Site plan approval by the Planning Board is also required.[45]

(6) Resort hotel. A special exception may be granted for a resort hotel and those uses traditionally associated with this use, provided that:

(a) The resort hotel is constructed on and in conjunction with a commercial golf facility or with another recreational/resort use on the supporting acreage;

(b) The minimum lot size for the lot supporting the combined commercial golf course and resort hotel shall be 200 acres, exclusive of that acreage that falls within the Wetlands Conservation District;

(c) To the extent not previously satisfied in an approval for a commercial golf facility, the resort hotel and its site will comply with all of the conditions required for a commercial golf facility;

(d) In addition to the buffer area required for commercial golf courses, the resort hotel building(s) shall be set back no closer than 100 feet to the boundary line of any other unaffiliated lot (An "unaffiliated lot or roadway" is a lot or roadway not owned or controlled by the applicant or its principals.); and **[Amended 4-12-2016 ATM by Art. 6]**

(e) The number of guest rooms in the resort hotel will be dependent upon the acreage allocated to the combined facility/resort hotel lot, at a ratio of two acres per guest room.

(7) Post offices. A special exception may be granted to permit a publicly or privately owned post office, provided that:

(a) Traffic access to and from the site will not alter the character of the abutting residential neighborhood;

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45. Editor's Note: See Ch. 110, Site Plan Review.

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(b) The post office is architecturally compatible with the surrounding residential district;

(c) The proposed facility will not adversely affect abutting properties by reason of undue light, noise, density of use or decreased property values;

(d) No portion of the building may be used for any purpose other than a post office;

(e) At such time as the facility ceases to be used as a post office, the building and improvements shall either be razed or converted to a use allowed in the district; and

(f) The minimum dimensional lot requirements (lot size, setbacks, frontage, etc.) may be increased by either the Zoning Board of Adjustment or the Planning Board if it is found that the aforementioned criteria cannot be met using minimum dimensional requirements.

(8) Heliports. A special exception may be granted to permit heliports as a private/business accessory use. The requirement for a special exception to be granted under this section shall not be applied to the use of helicopters, or any other type of aircraft, being used on a temporary basis for such purposes as emergency response, medical necessity, ongoing construction projects that have been permitted by the Town of Conway, or temporary (fewer than seven days) news media coverage. Before a special exception for a heliport can be granted by the Zoning Board of Adjustment, the following conditions must be met:

(a) The use of the site for a heliport shall not be offensive to the character of the neighborhood;

(b) The use of the site for a heliport shall not decrease abutting property values. Evidence supporting property values must be submitted by any party with an interest in the granting of the special exception from a creditable source that is knowledgeable of land evaluation and property values;

(c) Any site being considered to contain a heliport must be, at a minimum, five acres in size;

(d) Other site dimensions, above and beyond the overall acreage requirement listed above, shall be sufficient to provide safety areas suitable to meet all FAA-suggested dimensions and requirements;

(e) Before the Zoning Board considers any application for a special exception for this land use, all federal and state approvals which are required must be obtained by the applicant, with copies of these approvals submitted as part of the request for a special exception; and

(f) A major site plan approval shall be required of the applicant from the Planning Board for the heliport, which is accessory to an approved business. As a condition for the granting of the special exception, no use of the heliport may be engaged by the applicant until all conditions of the special exception, including a major site plan approval, have been satisfied by the applicant.[46]

(9) A special exception may be granted for helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term nature. No approval for a special exception shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to Town residents and their property.

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46. Editor's Note: See Ch. 110, Site Plan Review.

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(10) Business development parks. A special exception may be granted for a business development park that provides educational and technical assistance as well as incubation space and infrastructure for new and existing business development, including roads, buildings, and other necessary infrastructure within the district, provided the following conditions are satisfied: **[Amended 4-11-2017 ATM by Art. 2]**

(a) The subject property must have some of its boundary within or contiguous with the boundary of a Highway or Village Commercial District.

(b) Arterial road. The business development park must front on and access an existing arterial road.

(c) Setbacks. The minimum front, side and rear setback from all adjacent properties and roads shall be 100 feet.

(d) Parking lots. Parking lots shall not exceed 20,000 square feet in gross area.

(e) Nuisances; hazards. The applicant must demonstrate that the operations of the business development park, including noise, odors and any other expected hazards associated with the development, are consistent with that of a residential neighborhood.

(f) Property values. The applicant shall provide a comprehensive report, by an appraiser licensed by the State of New Hampshire, which demonstrates that there will be no negative impact on abutting properties. This report shall be reviewed and comments will be provided by the Town Assessor.

(g) Traffic study. The applicant must provide a traffic study, certified by a qualified engineer licensed by the State of New Hampshire, which clearly indicates the traffic impacts that would result from the project and improvements to the existing transportation infrastructure that would be necessary to ensure appropriate access and level of service. This report shall be reviewed and comments will be provided by the Town Engineer.

(h) Buffer. A perimeter buffer area adjacent to all abutting properties and streets shall be left in its undisturbed natural state or, if disturbed, shall be replanted with indigenous species. The minimum buffer depth shall be 100 feet.

(i) Recreation use. The business development park will construct a passive and active recreation trail system within the project for use by tenants of the business development park and the public. The trail system shall provide links to other existing or future publicly accessible trails adjacent to the property. The rate of trail system construction shall be, at least, consistent with the rate of development of the business development park. The recreation trails may cross the buffer only to connect with existing or future publicly accessible trails on adjacent properties and if they do not impair the effectiveness of the buffer.

(j) Green space. Green space shall comprise not less than 35% of the total lot area, exclusive of wetlands, water bodies, the one-hundred-year floodplain and slopes over 25%.

(11) Kennels. A special exception may be granted to permit kennels for transient (fewer than 30 days) housing of domestic animals or commercial breeding facilities for domestic animals, provided that:

(a) Minimum lot size is two acres.

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(b) Animal housing areas, if indoors, shall be set back 40 feet from side and rear property lines and 60 feet from rights-of-way. Pastures/Outdoor exercise areas shall be set back 15 feet from any property line.

(c) A written plan for the disposal/removal of animal waste must be submitted along with the application requesting the special exception from the Zoning Board. This plan must be approved by the Board as a condition of the special exception approval, if granted.

(d) All animals shall be kept in an indoor area between the hours of 6:00 p.m. and 8:00 a.m.

(e) At no time shall noise from a kennel operation exceed 70 decibels when measured at a property line. Sound barriers or additional setback area may be required to limit sound impacts on abutting properties. At any time, the Town may demand noise levels be verified by a qualified engineer. **[Added 4-9-2024ATM by Art. 17]**

(12) Wireless communication facilities. Wireless communication facilities may be allowed by special exception in the RR District, on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:

(a) Since the visual impact of wireless communication facilities can transcend Town lines, communities that may be visually affected shall be formally notified of applications for such proposed facilities as projects having regional impact.

(b) The applicant must demonstrate that every reasonable effort has been made to cause the facility to have the least possible visual impact on the Town at large, including demonstration of realistic analysis of multiple sites, the need for the proposed height, and any impact on significant roadside viewpoints.

(c) Any wireless communication facility shall be designed to accommodate multiple providers of communication services and will only be approved under the condition that the primary developer of the facility will make the facility available upon reasonable terms by lease or other legal instruments to other wireless communication services.

(d) The Board of Adjustment may request detailed plans from the applicant and may, at the expense of the applicant, engage the services of professional consultants to review and comment on the proposal, and testimony of the applicants or their agents relating thereto.

(e) Major site plan approval must be obtained from the Planning Board.[47]

(13) Mobile homes. The Zoning Board of Adjustment may grant a special exception for a mobile home on a lot on which a single-family residential structure exists if the following conditions are met:

(a) The mobile home shall be occupied only as the usual residence of the immediate family, including grandparents, parents and children, of the owner and/or spouse of the primary single-family residential structure on the lot, and the lot shall be at least one acre if served by municipal water and sewerage and at least two acres in all other cases; or the mobile home shall be occupied as the usual residence of a full-time agricultural employee and his immediate family, and the single-family residence shall be part of an owner-operated farm of 25 acres or more.

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47. Editor's Note: See Ch. 110, Site Plan Review.

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(b) The special exception shall terminate on a change of ownership or occupancy of either the mobile home or the primary residential structure.

(c) A permit shall be obtained from the Selectmen or their agent, which shall be renewed yearly to ensure compliance with the above conditions.

§ 190-25. Mountain Conservation Overlay (MCO) District.

The MCO District is primarily designed to preserve scenic mountain areas. Land uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries and map.

(1) District boundaries. The Mountain Conservation District shall consist of all land north and east of the Saco River which is above 800 feet in elevation, referenced to the North American Vertical Datum of 1929.

(2) District map. The MCO District Map is included as an attachment to this chapter.

B. In areas where the MCO District overlays the Recreational Resort District, the following uses shall also be permitted:

(1) Alpine ski trails.

(2) Alpine ski lifts.

(3) Snowmaking equipment.

(4) Night ski lighting.

C. Excavation shall be prohibited in the Mountain Conservation District.

D. Helicopters. A special exception may be granted for helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term nature. No approval for a special exception shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to Town residents and their property.

§ 190-26. Floodplain Conservation Overlay (FCO) District.

The FCO District is primarily designed to promote and protect the health, safety and general welfare of the Town by providing reasonable regulations governing development and use of the floodplain. Land uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries and map.

(1) District boundaries. The Floodplain Conservation Overlay District is hereby determined to be those areas designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study for the County of Carroll, N.H. dated March 19, 2013, together with the associated Flood Insurance Rate Maps dated March 19, 2013, which are declared to be part of this chapter and are hereby incorporated by reference.

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(2) District map. The FCO District Map is included as an attachment to this chapter.

B. Special exceptions.

(1) The following land uses shall be allowed within the floodplain, except those areas within the floodway, unless expressly allowed in the floodway hereunder if granted a special exception by the Zoning Board of Adjustment:

(a) Uses, but not structures, compatible to open space.

(b) Limited agricultural extraction of sand, gravel and other materials for noncommercial use.

(c) Boat landings and boat access areas within the floodway.

(d) Railroads, streets, driveways, bridges, utility transmission lines and pipelines.

(e) Storage yards for equipment, machinery or materials accessory to adjacent permitted uses.

(f) Fill or materials to be deposited in the floodplain may be allowed by special exception, provided that the purpose is consistent with the permitted uses represented in the Permitted Use Table included as an attachment to this chapter and the amount thereof is not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials. Such fill or other materials shall be protected against erosion by riprap, vegetation cover or bulkheading.

(g) Municipal and school district facilities.

(h) Agricultural buildings that do not require septic systems.

(i) The construction or maintenance of farm, forest or recreational service roads.

(j) River or floodway maintenance.

(k) In the area around Pequawket Pond between the one-hundred-year flood level and the ten-year-flood level (464.1 feet to 460.5 feet), as shown on the maps described herein, development, substantial improvements and building, provided that it is serviced by precinct water and sewerage and the lowest floor is above the one-hundred-year-flood level.

(l) Signs for permitted uses and existing nonconforming uses as provided in § 190-30, Nonconformity, provided that the signs meet the minimum standards and intent for signs in the underlying district.

(m) Accessory industrial-commercial uses, limited to loading areas, parking areas and aircraft landing strips.

(n) Heliports. A special exception may be granted to permit heliports, as a private/business accessory use. The requirement for a special exception to be granted under this subsection shall not be applied to the use of helicopters, or any other type of aircraft, being used on a temporary basis for such purposes as emergency response, medical necessity, ongoing construction projects that have been permitted by the Town of Conway, or temporary (fewer than seven days) news media coverage. Before a special exception for a heliport can be granted by the Zoning Board, the following conditions must be met:

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[1] The use of the site for a heliport shall not be offensive to the character of the neighborhood.

[2] The use of the site for a heliport shall not decrease abutting property values. Evidence supporting property values must be submitted by any party with an interest in the granting of the special exception from a creditable source that is knowledgeable of land evaluation and property values.

[3] Any site being considered to contain a heliport must be, at a minimum, five acres in size.

[4] Other site dimensions, above and beyond the overall acreage requirement listed above, shall be sufficient to provide safety areas suitable to meet all FAA-suggested dimensions and requirements.

[5] Before the Zoning Board considers any application for a special exception for this land use, all federal and state approvals which are required must be obtained by the applicant, with copies of these approvals submitted as part of the request for the special exception.

[6] A major site plan approval shall be required of the applicant from the Planning Board for the heliport, which is accessory to an approved business. As a condition for the granting of the special exception, no use of the heliport may be engaged by the applicant until all conditions of the special exception, including a major site plan approval, have been satisfied by the applicant.[48]

(2) Conditions. No special exceptions shall be granted, however, until the following conditions are met:

(a) All development and substantial improvements shall comply with the minimum standards of the regulations of the National Flood Insurance Program contained in 44 CFR 60.3 and 44 CFR 60.6 (Code of Federal Regulations), as amended.

(b) New and replacement water supply, replacement septic systems and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharges from the systems into floodwaters.

(c) All fill, new construction, substantial improvements and other development within the floodway shall be prohibited unless the applicant's New Hampshire registered engineer can show, through hydrologic and hydraulic analyses performed in accordance with standard engineering practices, that the activity would not result in any increase in flood hazard within the Town of Conway.

(d) The granting of the special exception would not violate the general spirit of this chapter nor would it create a public health or safety hazard.

(3) A special exception may be granted for helicopter operations for construction and survey work, where no other practical method is available to do the work, and for special events such as the visit of a dignitary, recreational events such as ski, tennis, equine or golf events, or some other events of a short-term nature. No approval for a special exception shall be granted unless the ZBA makes a finding that the helicopter use will not constitute a nuisance or hazard to Town

48. **Editor's Note: See Ch. 110, Site Plan Review.**

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residents and their property.

C. Special provisions.

(1) There shall be no expansion of present nonconforming buildings or pre-existing septic systems in the floodplain, provided that this shall not prohibit the maintenance, repair and/or correction of such pre-existing septic systems which malfunction. There shall be no allowance of a new septic system in the floodplain.

(2) Existing nonconforming buildings within this district, which have been substantially damaged, may be repaired within one year, provided that they comply with the minimum standards of the regulations of the National Flood Insurance Program. (See definition of "substantial damage" in § 190-31.) Buildings not rebuilt to such standards shall be removed completely.

(3) Changes to watercourses.

(a) In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the NHDES Wetlands Bureau and submit copies of such notification to the Board of Selectmen, in addition to the copies required by RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent towns as determined by the Board of Selectmen, including notice of all scheduled hearings before the Wetlands Bureau.

(b) Along watercourses with a designated regulatory floodway, no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge. In Zone A, the Building Inspector shall obtain, review and reasonably utilize any floodway data available from federal, state or other sources as criteria for requiring that development meets the floodway requirements of this section.

(c) Along watercourses that have not had a regulatory floodway designated, no new construction, substantial improvements or other development (including fill) shall be permitted within Zones A1-A30 and AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(4) All developments which are floodproofed shall be certified by a New Hampshire registered professional engineer or architect that the floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood.

(5) Where the Floodplain Conservation District is superimposed over another zoning district, the more restrictive regulations shall apply.

(6) Within the altered or relocated portion of any watercourse, the applicant shall submit to the Building Inspector certification provided by a registered professional engineer assuring that the flood-carrying capacity of the watercourse has been maintained.

(7) In Zone A, the Building Inspector shall obtain, review and reasonably utilize any floodway data available from a federal, state or other source as criteria for requiring that development meets

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the floodway requirements of this section.

(a) In special flood hazard areas, the Building Inspector shall determine the one-hundred-year-flood elevation in the following order of precedence according to the data available:

[1] In Zone AE, refer to the elevation provided in the community's Flood Insurance Study and accompanying FIRM.

[2] In A Zones, the Building Inspector shall obtain, review and reasonably utilize any one-hundred-year-flood elevation data available from federal, state, development proposals submitted to the community (for example subdivisions, site approvals, etc.) or other sources.

[3] In Zone AO, the one-hundred-year-flood elevation is determined by adding the elevation of the highest adjacent grade to the depth number specified on the FIRM or, if no depth number is specified on the FIRM, at least two feet.

(8) Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(9) The Building Inspector shall maintain for public inspection and furnish upon request any certification of floodproofing and the as-built elevation (in relation to mean sea level) of the lowest floor (including the basement) of all new or substantially improved structures and include whether or not such structures contain a basement, and if the structure has been floodproofed, the as-built elevation (in relation to mean sea level) to which the structure was floodproofed. This information must be furnished by the applicant.

(10) Excavation shall be prohibited in the Floodplain Conservation District.

D. Variances.

(1) A variance is a relaxation or setting aside, in a specific case, of certain specified terms of this chapter. In accordance with RSA 674:33, I(b), the applicant shall have the burden of showing, in addition to the usual variance standards under state law:

(a) That the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense;

(b) That, if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result; and

(c) That the variance is necessary, considering the flood hazard, to afford relief.

(2) Notification.

(a) The ZBA shall notify the applicant in writing that:

[1] The issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and

[2] Such construction below the base flood level increases risks to life and property.

(b) Such notification shall be maintained with a record of all variance actions.

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(3) The community shall:

(a) Maintain a record of all variance actions, including the justification for their issuance; and

(b) Report such variances issued in its annual or biannual report submitted to FEMA's Federal Insurance Administrator.

§ 190-27. Shoreline Protection Overlay (SPO) District.

The SPO District is primarily designed to allow for use of the water and careful development of the land immediately adjacent to all Great Ponds so as to protect and enhance water quality, preserve natural beauty and aesthetic qualities, prevent overcrowding of the shoreland and protect aquatic and terrestrial wildlife habitat. Excavations are specifically prohibited in this district. Multifamily residential buildings shall not be permitted if the underlying district is Residential Agricultural (RA). Land uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries and map.

(1) District boundaries. The Shoreline Protection Overlay District shall be comprised of all land within 300 feet from the edge of water of all Great Ponds, except in Conway Village, where the zone shall only extend to the center line of Route 16 or to the three-hundred-foot line from Pequawket Pond, whichever is less restrictive. In no case shall the district extend more than 300 feet inland from the edge of water.

(a) Great Ponds include the following: Conway Lake, Dolloff Pond, Echo Lake, Labrador Pond, Pequawket Pond, and Puddin' Pond. For purposes of this district, "Pequawket Pond" shall include Page Randall Brook north and west of Tasker Hill Road and Pleasant Street and shall include the outlet brook entering Pequawket Pond from Upper Pequawket Pond.

(b) The "edge of water" shall be considered the point where water and land meet, and this is defined by the following elevations above mean sea level:

[1] Conway Lake: 436 feet.

[2] Dolloff Pond: 550 feet.

[3] Echo Lake: 510 feet.

[4] Labrador Pond: 550 feet.

[5] Pequawket Pond: 458 feet.

[6] Puddin' Pond: 537 feet.

(2) District map. The SPO District Map is included as an attachment to this chapter.

B. Water frontage. All lots fronting on a Great Pond shall have a minimum of 150 feet of water frontage.

C. Development density. The overall density of development on a lot shall be determined with standard zoning and subdivision criteria such as lot size and natural resource constraints. However, the density of development allowed within 300 feet of the normal high-water elevation shall be restricted by the amount of water frontage. In case of conflicting results between state statute, state regulation, any other provision of municipal ordinance, and this subsection, the most restrictive regulation shall apply. Density within 300 feet of the normal high-water elevation shall be as follows: **[Amended**

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4-9-2024ATM by Art. 20]

(1) The first unit shall have 150 feet of water frontage.

(2) Each additional existing unit set back 100 feet or less from the edge of water shall have 150 feet of water frontage.

(3) Each additional new or existing unit set back more than 100 feet but less than or equal to 200 feet from the normal high-water elevation shall have 150 feet of water frontage.

(4) Each additional new or existing unit set back more than 200 feet but less than or equal to 300 feet from the edge of water shall have 50 feet of water frontage.

D. Shoreline setbacks. Each structure shall have a one-hundred-foot minimum setback from the normal high-water elevation in all underlying zoning districts; with the exception of a single boat storage shed, which shall be set back a minimum of 50 feet from the normal high-water elevation. **[Amended 4-9-2024ATM by Art. 20]**

E. Lot coverage. Coverage of a lot with structures and impervious surfaces, including but not limited to buildings, driveways and sidewalks, shall be restricted as follows:

(1) In the commercial districts, no more than 65% of the lot may be covered.

(2) In all other districts, no more than 25% of the lot may be covered.

F. Buffer. There shall be a fifty-foot-wide vegetated buffer along the water frontage of each lot. This buffer serves as a natural filter to protect the lakes from contaminated surface runoff, provides habitat for terrestrial wildlife, protects aesthetic qualities of the lake environment and helps prevent erosion of the shoreline. The following restrictions shall apply to the buffer:

(1) One access path across the buffer, up to 10 feet in width (measured parallel to the shoreline), is allowed for each 150 feet of water frontage. Such paths shall be designed to prevent erosion and runoff into the lake. If any lot is allowed more than one access path, such access paths shall be not less than 50 feet apart from another such access path. **[Amended 4-9-2024ATM by Art. 20]**

(2) No vegetation less than four inches in diameter, measured at 4 1/2 feet above ground level, shall be cut, trimmed, pruned or removed, except to provide for permitted access paths.

(3) For vegetation four inches or more in diameter, measured 4 1/2 feet above ground level (hereafter referred to as "trees"), no more than 10% of the basal area of trees may be removed from the buffer (not including the area of permitted access paths) in any five-year period. Any such cutting shall be dispersed evenly within the entire buffer area of the lot, excepting that clearing is allowed within an access path permitted by Subsection F (1) hereof, and/or within a beach permitted by Subsection H hereof. Before any cutting may occur, the Zoning Officer shall be provided with a plat indicating the size and location of all trees in the buffer, which indicates the total basal area before and after the proposed cutting, which shows appropriate dispersal of the cutting, and which indicates all measures to be taken to prevent destruction of the buffer and protect the water quality. Cutting may occur only after receipt of written authorization from the Zoning Officer. **[Amended 4-9-2024ATM by Art. 20]**

(4) No cutting or trimming of living tree limbs shall be permitted.

(5) Dead trees and dead limbs may be cut down upon written authorization from the Zoning Officer.

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(6) For existing beaches permitted by Subsection H, some clearing of land within the buffer is required. In no case shall such clearing for a beach extend inland more than 10 feet from the normal high-water elevation, and such clearing shall be no longer, deeper, or wider than the permitted beach as it existed on or before April 9, 2023. **[Amended 4-9-2024ATM by Art. 20]**

(7) In order to afford maximum protection to the lakes' water quality, the application of chemical fertilizer, insecticides or other chemicals shall be prohibited in the district, including without limitation within the buffer. No vegetation normally requiring fertilization, including grass lawn, shall be planted within the buffer, including without limitation in beach or access path areas. **[Added 4-9-2024ATM by Art. 20]**

G. Docks. Docks shall be permitted as follows: **[Amended 4-9-2024ATM by Art. 20]**

(1) Maximum number of docks shall be one per 150 feet of water frontage, but lots with less than 150 feet of water frontage are permitted one dock.

(2) A dock, including all ramps and accessory structures, shall not extend more than 30 feet into the water from the edge of the water.

(3) A dock shall not be wider than 10 feet in width.

(4) The location or length of a dock or a swim float shall not present a hazard to boating.

(5) Docks shall be for the exclusive use and enjoyment of the residents of the lot from which it extends, and shall not be transferred, rented, or leased apart from the entirety of the lot.

H. Private beaches. Beaches, as defined by N.H. Code of Administrative Rules Env-Wt 102.16 (2019), and which shall also include a "perched beach" as defined in Env- Wt 103.51, on a Great Pond which are not owned by a unit of government shall be regulated as follows: **[Amended 4-11-2017 ATM by Art. 2; 4-9-2024ATM by Art. 20]**

(1) Existing beaches may be maintained without the use of any machines or motorized equipment below the high-water elevation. Washed sand shall be the only material which may be added to the beach. The amount of washed sand added shall not exceed one cubic yard per three feet of beach length in any five-year period. A zoning permit and all applicable state permits shall be required before any sand is deposited, and it shall be the responsibility of the Zoning Officer to maintain records to monitor beach maintenance.

(2) New beaches may be created only when the following conditions are met:

(a) The lot shall be considered to have an area suitable for a beach if it meets each of the following criteria:

[1] The slope of land from the high-water elevation to a line 10 feet inland shall not have slopes steeper than 10%.

[2] The slope of the land from the high-water elevation to a line 20 feet out into the water shall not have slopes steeper than 10%.

[3] The proposed beach site shall be determined by an independent wildlife biologist to be of minimal importance as fish habitat and/or spawning area (written report from the wildlife biologist shall be provided to the Town).

[4] The area proposed for a beach above the high-water elevation is not on or within 10

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feet of poorly or very poorly drained soils or wetlands.

[5] All proposed beaches must comply with the requirements set forth in RSA Ch. 482-A and the New Hampshire Code of Administrative Rules, as amended.

(b) A beach shall be no longer than 10% of the length of water frontage, except that no beach shall be required to be less than 15 feet in length.

(c) No more than one cubic yard of sand per three feet of beach length shall be used to create the beach. Compliance with this requirement shall be documented to the Zoning Officer by means of providing all receipts for beach construction. Only washed sand shall be used for beach construction.

(d) Once established, the maintenance requirements listed in Subsection H(1) shall apply.

(e) Erosion control measures shall be provided such that runoff shall not run across the beach, with a design certified by a New Hampshire licensed professional engineer and reviewed by the Carroll County Conservation District.

(f) A New Hampshire licensed professional engineer shall inspect the site three times: before construction; after grubbing but before sand is added; and when construction is completed. The professional engineer shall certify that all work is completed in accordance with the plans provided to the Town and in accordance with these requirements.

(g) All other required permits and approvals are obtained.

I. Shorefront common areas. Shorefront common areas are those areas used for water recreation and/or access by users living off-site. Such areas shall comply with the following:

(1) Shorefront common areas shall not be located on lots smaller than two acres.

(2) The lot shall have, at a minimum, 50 feet of water frontage per family or household having rights of use; provided, however, that no more than 500 feet of water frontage shall be required for any one shorefront common area.

(3) Parking lots for shorefront common areas shall be set back a minimum of 200 feet from the normal high-water elevation. The parking area shall be screened from view of the water by a strip of trees and shrubs at least 25 feet wide.

(4) Creation or alteration of shorefront common areas shall be subject to site plan review.

J. Earth disturbance. Prior to any work activity in which digging will occur or the ground's vegetative cover will be removed or substantially disturbed, sufficient erosion and sedimentation control measures shall be installed in accordance with RSA 485-A:17 and the New Hampshire Code of Administrative Rules, as amended. Such measures, which may include hay bales and silt fences, shall be maintained in proper working order until the ground surface is stabilized and no longer subject to erosion. The control measures shall be installed to protect both the lake and the buffer (in order to preserve the buffer's natural filtering capacity). **[Amended 4-11-2017 ATM by Art. 2]**

K. Water quality. In order to afford maximum protection to the lakes' water quality, the application of chemical fertilizer, insecticides or other chemicals shall be prohibited in the district, including without limitation within the buffer. In addition, drainage shall be controlled and treated as best as is reasonably possible for any construction or activity, or as a result of any land use, such as access paths. Local regulation of pesticide management is preempted by RSA 430:49. **[Amended**

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4-9-2024ATM by Art. 20]

L. Special exceptions. The following shall be prohibited unless granted a special exception by the Zoning Board of Adjustment. If granted a special exception under this subsection, a site plan review approval shall be required prior to construction.[49]

(1) Protective riprap. Riprap to protect shores from erosion shall be granted a special exception by the Zoning Board of Adjustment, provided that the following conditions are met:

(a) All required state and federal permits are obtained; and

(b) The shoreline is being eroded by action of the waters and the riprap will protect the shoreline from further erosion without enhancing erosion at another location on the shoreline.

(2) Building on undersized lots. Building on pre-existing lots with insufficient acreage shall be granted a special exception by the Zoning Board of Adjustment, provided that the following conditions are met:

(a) There is a state-approved septic system or connection to a municipal sewer.

(b) Any building to be constructed shall be configured and located on the lot to create the maximum shoreline setback practical. If appropriate, rear and sideline setbacks may be reduced by the Zoning Board of Adjustment by up to 50% to facilitate maximum shoreline protection.

(c) Clearing of lots may be limited by the Zoning Board of Adjustment as a condition of approval so as to prevent erosion runoff problems.

(3) Municipal and state facilities. Municipal and state facilities, including beaches and boat launches, shall be granted a special exception by the Zoning Board of Adjustment, provided that the following conditions are met:

(a) All required state and federal permits are obtained.

(b) Sand for a beach shall not be deposited in water which is deeper than 4.5 feet nor farther than 75 feet out from the high-water elevation. For erosion control of the beach area, a barrier shall be constructed between the water and the sand on the beach. The site shall not be normally subject to erosion by action of the water nor by the grade of the shoreline slope.

(c) In order to shield the view of parked vehicles from the water and to protect the water from runoff from parking areas, parking shall be located behind a landscaped area of natural or planted vegetation at least 50 feet in depth. Parking areas shall be gravel. Appropriate drainage controls shall be constructed and maintained to protect the Great Pond.

(d) Footpaths may be cleared across the vegetated area for access to the beach. They shall be kept at a minimum width which serves pedestrian access to the water.

§ 190-28. Wetland and Watershed Protection Overlay (WWPO) District. [Amended 4-11-2017

49. **Editor's Note: See Ch. 110, Site Plan Review.**

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ATM by Art. 2; 4-9-2024ATM by Art. 16]

The WWPO District is primarily designed to protect the public health, safety and general welfare by protecting valuable wetland and water resources; preventing the harmful filling, draining, sedimentation, or alteration of wetlands and watercourses; protecting unique and unusual natural areas; preventing the development of structures and land uses on naturally occurring wetlands, which could contribute to pollution of surface water and groundwater by sewage; preventing the destruction or significant degradation of wetlands which provide flood and storm control by the hydrologic absorption and storage capacity of the wetland; protecting fish and wildlife habitats by providing breeding, nesting, and feeding grounds for many forms of plant and animal life, including rare, threatened, or endangered species; protect existing and potential water supplies, aquifers and aquifer recharge areas; providing pollution treatment to maintain water quality; preventing expenditures of municipal funds for the purpose of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of wetlands; providing for compatible land uses in and adjacent to wetlands or surface waters which serve to enhance, preserve, and protect wetland areas and water bodies as natural resources. Excavation shall be prohibited in statutory wetlands unless permitted New Hampshire Department of Environmental Services (NH DES). Land uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries and map.

(1) District boundaries.

(a) The WWPO District shall be comprised of all land within 250 feet from the edge of:

[1] All water bodies, excluding Great Ponds, which are covered under the Shoreline Protection Overlay District; and certain man-made water bodies, such as fire ponds, agricultural/irrigation ponds, sedimentation/detention basins, and seweragelagoons;

[2] All year-round watercourses;

[3] All wetland areas of three or more contiguous acres, excluding constructed or legally altered wetlands that are not part of a wetland mitigation plan, and vegetated swales and roadside ditches;

[4] All wetland areas as shown on the Town of Conway 1997 Wetlands Composite Map abutting a water body or year-round watercourse defined on the Town's GIS mapping resource, regardless of the wetland acreage involved;

[5] All perennial watercourses and hydric areas depicted as having poorly or very poorly drained soils according to the Soils Survey of Carroll County, New Hampshire (approved in 1973, and issued in 1977); and

[6] All wetland areas, except wet woodlands (designated as WW-1 and WW-2), identified and delineated in a report entitled "The Wetlands of Conway, New Hampshire - An Inventory and Evaluation," United States Department of Agricultural Extension Service Wetlands Project, Report No. 1, dated 1979.

(b) Disputed or incorrectly delineated wetlands. When there is a dispute over the delineation of a mapped wetland, or in cases where an unmapped wetland is delineated, it may be resolved with a plan certified by a wetland or soil scientist licensed by the State of New Hampshire that delineates the wetlands in accordance with the criteria established in and defined by the Corps of Engineers Wetlands Delineation Manual Technical Report

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Y-87-1, Environmental Laboratory, Department of the Army, 1987 and Regional Field Indicators for Identifying Hydric Soils in New England, New England Interstate Water Pollution Control Commission, 1998.

(2) District map. The WWPO District Map is included as an attachment to this chapter.

B. Shoreline and wetland setbacks.

(1) Each structure shall have a 100-foot minimum setback from the edge of the water or edge of wetland, whichever is farther landward. Boat storage sheds, however, may be set back a minimum of 50 feet from the edge of the water or edge of wetland. In the Residential/ Agricultural District, storage sheds shall be set back a minimum of 50 feet from the edge of water or edge of the wetland. Only one storage shed is allowed per lot within the buffer.

(2) Special provisions.

(a) No septic tank or leach field may be constructed or enlarged closer than 100 feet to any wetland.

C. Impervious surface coverage within the WWPO shall not exceed 25%; including but not limited to buildings, driveways, and sidewalks. Qualifying areas within the WWPO may be used to meet greenspace requirements as defined by site plan regulations, § 110-29B.

D. Any development within the WWPO which requires site plan review shall meet the following performance standards and apply methodologies from the New Hampshire Stormwater Manual Volume 1, 2, and 3 as amended or other equivalent means, all such methods shall be indicated on any proposed site plan.

(1) Low-impact development (LID) site planning and design strategies shall be used to the maximum extent practicable to achieve the following:

(a) Recharge groundwater and reduce total runoff volumes.

(b) Control peak rates for flood control.

(c) Reduce pollutant loading.

(2) Stormwater directed to a qualifying wetland shall be treated onsite and achieve at least 80% removal of total suspended solids and at least 50% removal of both total nitrogen and total phosphorus using appropriate treatment measures, as specified in the New Hampshire Stormwater Manual, Volumes 1 and 2, as amended or other equivalent means.

(3) All bioretention areas shall be planted with native plantings appropriate for site conditions in sufficient numbers and density to prevent soil erosion and to achieve LID water quality treatment requirements. Standard wet ponds and other stormwater treatment areas shall meet NH DES stormwater standards.

(4) The design of stormwater management systems shall be based on the 100-year storm as indicated in the most recent edition of the NH Stormwater Manual as published by the NH DES.

(5) A proposed site plan must include erosion and sediment control measures, limits of disturbance, and temporary and permanent soil stabilization measures in accordance with the NH DES Stormwater Manual Volume 3 as amended or other equivalent means.

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(6) The placement and installation of any required culverts within the WWPO shall use methods that minimize impacts to the natural stream substrate and limit disturbance to streambeds. All such methods shall be indicated on proposed site plans.

E. Shoreline and wetland buffer. There shall be a fifty-foot-wide vegetated buffer along the edge of the water or edge of wetland, whichever is farther landward. This buffer serves as a natural filter to protect the waters and wetlands from contaminated surface runoff, provides habitat for terrestrial wildlife, protects aesthetic qualities of the water and wetland environment and helps prevent erosion of the shoreline. The following restrictions shall apply to the buffer:

(1) One access path across the buffer, up to 10 feet in width (measured parallel to the shoreline), is allowed for each 150 feet of water frontage. Such paths shall be designed to prevent erosion and runoff into the water or wetland. Path installation may occur only after receipt of a zoning permit from the Zoning Officer.

(2) Municipal trails on government lands and municipal trails across other lands (for which the Town of Conway has accepted trail easements) may be located within shoreline and wetland buffers, provided that they are designed and maintained to prevent erosion and runoff into the water or wetland.

(3) No vegetation less than four inches in diameter, measured at 4 1/2 feet above ground level, shall be cut, trimmed, pruned or removed, except to provide for permitted access paths.

(4) For vegetation four inches or more in diameter, measured 4 1/2 feet above ground level (hereafter referred to as "trees"), no more than 10% of the basal area of trees may be removed from the buffer (not including the area of permitted access paths) in any five-year period. Before any cutting may occur, the Zoning Officer shall be provided with a plat indicating the size and location of all trees in the buffer, which indicates the total basal area before and after the proposed cutting and which indicates all measures to be taken to prevent destruction of the buffer and protect the water quality. Cutting may occur only after receipt of a zoning permit from the Zoning Officer.

(5) No cutting or trimming of living tree limbs shall be permitted.

(6) Dead trees and dead limbs may be cut down only after receipt of a zoning permit from the Zoning Officer.

(7) For beaches permitted herein, where some clearing of land within the buffer is required, in no case shall such clearing for a beach extend inland more than 10 feet from the normal high-water elevation, and such clearing shall be no longer than the permitted beach.

(8) Agricultural and timber harvesting activities and operations shall be permitted uses within the buffer area, provided they conform to best management practices established by the United States Department of Agriculture Natural Resources Conservation Service, Cooperative Extension and/or the New Hampshire Department of Agriculture and RSA Ch.227-J.

F. Docks. Docks which are completely removed from the water for the winter season shall be permitted as follows:

(1) Maximum number of docks shall be one per 150 feet of water frontage, but lots withless than 150 feet of water frontage are permitted one dock.

(2) A dock shall not extend more than 30 feet into the water.

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(3) A dock shall not be a wider than 10 feet in width.

(4) A zoning permit must be obtained prior to the installation of a dock.

G. Private beaches. Beaches which are not owned by a unit of government shall be regulated as follows:

(1) Existing beaches may be maintained without the use of any machines or motorized equipment below the high-water elevation. Washed sand shall be the only material which may be added to the beach. The amount of washed sand added shall not exceed one cubic yard per three feet of beach length in any five-year period. A zoning permit and all applicable state permits shall be required before any sand is deposited, and it shall be the responsibility of the Zoning Officer to maintain records to monitor beach maintenance.

(2) New beaches may be created only when the following conditions are met:

(a) The lot shall be considered to have an area suitable for a beach if it meets each of the following criteria:

[1] The slope of land from the high-water elevation to a line 10 feet inland shall not have slopes steeper than 10%.

[2] The slope of the land from the high-water elevation to a line 20 feet out into the water shall have slopes greater than 10%.

[3] The proposed beach site shall be determined by an independent wildlife biologist to be of minimal importance as fish habitat and/or spawning area (written report from the wildlife biologist shall be provided to the Town).

[4] The area proposed for a beach above the high-water elevation is not on or within 10 feet of poorly or very poorly drained soils or wetlands.

[5] All proposed beaches must comply with the requirements set forth in RSA Ch. 482-A and the New Hampshire Code of Administrative Rules, as amended.

(b) A beach shall be no longer than 10% of the length of water frontage, except that no beach shall be required to be less than 15 feet in length.

(c) No more than one cubic yard of sand per three feet of beach length shall be used to create the beach. Compliance with this requirement shall be documented to the Zoning Officer by means of providing all receipts for beach construction. Only washed sand shall be used for beach construction.

(d) Once established, the maintenance requirements listed in Subsection G(1) shall apply.

(e) Erosion control measures shall be provided such that runoff shall not run across the beach, with a design certified by a New Hampshire licensed professional engineer and reviewed by the Carroll County Conservation District.

(f) A New Hampshire licensed professional engineer shall inspect the site three times: before construction; after grubbing but before sand is added; and when construction is completed. The professional engineer shall certify that all work is completed in accordance with the plans provided to the Town and in accordance with these requirements.

(g) All other required permits and approvals are obtained.

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H. Shorefront common areas. Shorefront common areas are those areas used for water recreation and/or access by users living off-site. Such areas shall comply with the following:

(1) Shorefront common areas shall not be located on lots smaller than two acres.

(2) The lot shall have, at a minimum, 50 feet of water frontage per family or household having rights of use; provided, however, that no more than 500 feet of water frontage shall be required for any one shorefront common area.

(3) Parking lots for shorefront common areas shall be set back a minimum of 200 feet from the normal high-water elevation. The parking area shall be screened from view of the water by a strip, at least 25 feet wide, of trees and shrubs.

(4) Creation or alteration of shorefront common areas shall be subject to site plan review.[50]

I. Earth disturbance. Prior to any work activity in which digging will occur or the ground's vegetative cover will be removed or substantially disturbed, sufficient erosion and sedimentation control measures shall be installed in accordance with RSA 485-A:17 and the New Hampshire Code of Administrative Rules, as amended. Such measures, which may include hay bales and silt fences, shall be maintained in proper working order until the ground surface is stabilized and no longer subject to erosion. The control measures shall be installed to protect the water, the wetland and the buffer (in order to preserve the buffer's natural filtering capacity).

J. Water quality. In order to afford maximum protection to water quality, the application of chemical fertilizer, insecticides or other chemicals shall be prohibited in the district. In addition, drainage shall be controlled and treated as best as is reasonably possible for any construction or activity, or as a result of any land use, such as access paths. Local regulation of pesticide management is preempted by RSA 430:49.

K. Special exceptions. The following shall be prohibited unless granted a special exception by the Zoning Board of Adjustment. If granted a special exception under this section, a site plan review approval shall be required prior to construction. References to the "shoreline" shall be considered either the shoreline of the water body/watercourse or the edge of wetland, whichever is farther landward. Any special exception shall be granted only after having found that there is no better feasible alternative, in keeping with state and federal standards for the issuance of development permits in 404 jurisdictional wetlands.

(1) Protective riprap. Riprap to protect shores from erosion shall be granted a special exception by the Zoning Board of Adjustment, provided that the following conditions are met:

(a) All required state and federal permits are obtained; and

(b) The shoreline is being eroded by action of the waters and the riprap will protect the shoreline from further erosion without enhancing erosion at another location on the shoreline.

(2) Building on undersized lots. Building on pre-existing lots with insufficient acreage shall be granted a special exception by the Zoning Board of Adjustment, provided that the following conditions are met:

(a) There is a state-approved septic system or connection to a municipal sewer.

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50. Editor's Note: See Ch. 110, Site Plan Review.

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(b) Any building to be constructed shall be configured and located on the lot to create the maximum shoreline setback practical. If appropriate, rear and sideline setbacks may be reduced by the Zoning Board of Adjustment by up to 50% to facilitate maximum shoreline protection.

(c) Clearing of lots may be limited by the Zoning Board of Adjustment as a condition of approval so as to prevent erosion runoff problems.

(3) Municipal and state facilities. Municipal and state facilities, including beaches and boat launches, shall be granted a special exception by the Zoning Board of Adjustment, provided that the following conditions are met:

(a) All required state and federal permits are obtained.

(b) Sand for a beach shall not be deposited in water which is deeper than 4.5 feet nor farther than 75 feet out from the high-water elevation. For erosion control of the beach area, a barrier shall be constructed between the water and the sand on the beach. The site shall not be normally subject to erosion by action of the water nor by the grade of the shoreline slope.

(c) In order to shield the view of parked vehicles from the water and to protect the water from runoff from parking areas, parking shall be located behind a landscaped area of natural or planted vegetation at least 50 feet in depth. Parking areas shall be gravel. Appropriate drainage controls shall be constructed and maintained to protect the Great Pond.

(d) Footpaths may be cleared across the vegetated area for access to the beach. They shall be kept at a minimum width which serves pedestrian access to the water.

(4) Wetland or stream crossing: the construction of a wetland or stream crossing for purposes of streets, roads and other access ways and utility right-of-way easernents, including power lines and pipelines. A special exception for these uses may be granted if the following conditions are met:

(a) The use is essential to the productive use of land not in the district; and

(b) The use is so located and constructed as to minimize the detrimental impact upon the wetlands.

(5) Water storage or impoundment: the construction of a water storage orimpoundment.

(6) Any use not otherwise permitted or otherwise allowed by special exception in a wetland, which may include the erection of a structure, dredging, filling, draining or otherwise altering the surface configuration of a wetland. A special exception may be granted, provided that the following conditions are met:

(a) The proposed use will not conflict with the purpose and intent of the district. To support this claim, the applicant shall provide proper written evidence, which shall be accompanied by the findings of a review by the United States Natural Resources Conservation Service; and

(b) The use is permitted in the underlying zoning district.

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§ 190-29. Groundwater Protection Overlay (GWPO) District.

The GWPO District is primarily designed to safeguard current and potential future groundwater sources of municipal drinking water. Initially, the policy shall only establish a protective radius around each municipal well and shall prohibit incompatible land uses within that radius. Eventually, the policy should be expanded in scope to prevent land use/groundwater quality conflicts throughout the entire draw-down/recharge area of each existing or potential municipal well. Land uses permitted in this district are represented in the Permitted Use Table included as an attachment to this chapter.

A. District boundaries and map.

(1) District boundaries. The WWPO District shall be comprised of a four-hundred-foot protective radius around each well serving the Conway Village Fire District and/or the North Conway Water Precinct municipal water supply systems.

(2) District map. The GWPO District Map is included as an attachment to this chapter.

B. Restrictions. Within the protective radius, only the following land uses are permitted: open space, gravel driveways, and structures relating to the well and water distribution system.

C. Nonconforming uses. A pre-existing use which is nonconforming with respect to the protective radius restrictions shall not be entitled to the same rights as are established in § 190-30A. The use shall be eliminated, changed to a conforming use, or changed only in a manner which reduces the threat to the water quality of the groundwater.

D. Permits. Any change in land use within the protective radius shall require a permit from the Zoning Officer. The Zoning Officer shall require a completed change-of-use application; and a survey of the entire protective radius area at a scale of one inch equals 20 feet showing all natural and man-made features. The Zoning Officer shall forward a copy of the application to the municipal entity owning the well for review and comments. The municipal entity shall have one week to comment, and the Zoning Officer shall not issue an approval for the change of use until the comment period has expired.[51]

§ 190-29.1. Parkway Protection Overlay District. [Added 4-9-2024ATM by Art. 14]

Purpose and intent. The Parkway Protection Overlay District (PPO) is primarily designed to preserve scenic parkways, including but not limited to the North-South Road. Land uses permitted in this district are represented in the Permitted Use Table.

A. District boundaries.

(1) The PPO District shall be comprised of a 250-foot protective buffer from the centerline of any parkway, designated by the Board of Selectmen, extending on both sides of the road.

(2) District map. The PPO District Map is included as an attachment to this chapter.[52]

B. Definition:

PARKWAY — A landscaped thoroughfare, most commonly a road or portion of a road with no curb cut and or crossroad access, that has a protected vegetated buffer along either side for the purpose

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51. Editor's Note: Original § 147.13.19, Special Highway Corridor Overlay District (SHCO), which followed this section, was repealed 4-11-2017 ATM by Art. 3.

52. Editor's Note: See Ch. 110, Site Plan Review.

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of maintaining scenic beauty. Vehicles with more than two axles are prohibited from driving on parkways.

C. Restrictions:

(1) Within the PPO District, no cutting of trees or land disturbance is permitted. A special exception may be granted for the cutting of trees which are deemed hazardous. No approval for a special exception under this section shall be granted unless the ZBA makes a finding that the removal trees or vegetation is necessary to prevent a hazard to life or safety.

(2) Prior to development or redevelopment of a parcel which contains any portion of the PPO District, the entirety of the overlay within that parcel shall be deed restricted as open space. The deed must indicate a vegetative buffer be established and maintained; and no disturbance, development, or alteration of terrain be permitted within the district.

(3) Previously disturbed areas within the PPO District shall be restored with adequate trees and vegetation to fully screen any proposed development within a parcel containing any portion of the overlay.

(4) No curb-cut or driveway shall be created onto a designated parkway.

(5) Nonconforming uses. A pre-existing use which is nonconforming with respect to the protective PPO District restrictions shall not be entitled to the same rights as are established in § 190-30A. The nonconforming use shall be eliminated or changed to a conforming use which improves the vegetated buffer prior to any redevelopment of a parcel within the PPO District.

§ 190-30. Nonconformity.

This section specifies those rights to which nonconforming uses, structures, signs and lots are entitled.

A. Nonconforming uses. Any lawful nonconforming use may continue indefinitely. In the event that such use is abandoned for any period of time, its reestablishment shall not be permitted. When there is a question regarding abandonment, the burden of proof shall be on the property owner rather than the Town.

(1) A lawful nonconforming use may be expanded in the normal course of business if granted approval by the Zoning Officer. The Zoning Officer shall grant the approval only if the following conditions are met:

(a) The expansion is accessory to the existing nonconforming use.

(b) The expansion shall be limited to the original lot of record on which the nonconforming use is located, subject to the following:

[1] The original lot of record shall be identical in size and boundaries to the lot at the time of passage of the zoning provision which caused the nonconformity; or the lot may have been reduced in size since the date of passage of the zoning provision which caused the nonconformity, provided that the newly created lot is entirely contained within the boundaries of the original lot of record.

[2] In no case shall the expansion render the lot proportionally less adequate, using this chapter, Chapter 130, Subdivision of Land, and/or Chapter 110, Site Plan Review, requirements for a standard, if appropriate.

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[3] The property owner shall be responsible for providing documentation defining the original lot of record.

(2) A lawful nonconforming use may be changed to a different nonconforming use if granted a special exception. The Zoning Board of Adjustment shall grant the special exception only if the following conditions are met:

(a) The proposed use shall be confined to the same lot to which the original nonconforming use would be confined [see Subsection A(1)].

(b) The proposed use shall have the same or a lesser impact on the neighborhood relative to the following:

[1] Public health, safety and/or welfare.

[2] Impact on property values of adjacent properties.

[3] Traffic.

[4] Nuisance to neighbors.

[5] Noise.

[6] Nighttime lighting.

B. Nonconforming structures.

(1) The two-dimensional footprint of a lawful nonconforming structure shall not be expanded unless granted approval by the Zoning Officer. Approval may be granted only if the following conditions are met:

(a) The nonconforming structure is not in the Floodplain Conservation Overlay District.

(b) Sanitary septic disposal and water supply are provided if it is a primary structure.

(c) The expansion shall be in a direction away from that which the setback is intended to protect or buffer.

(2) The three-dimensional envelope of a nonconforming structure shall not be expanded unless granted approval by the Zoning Officer. Approval may be granted only if the following conditions are met:

(a) If a downward expansion within a setback from a lake, pond, river or stream, it shall not extend any lower than the estimated seasonal high-water table.

(b) If an upward expansion, it shall not have any adverse impact on any neighboring properties, including but not limited to blocking sunlight and/or views.

(c) If an upward expansion, it shall not exceed the maximum height limitation specified in this chapter.

(d) If an enclosure of a space within the existing two-dimensional footprint, it shall be permitted except in the Floodplain Conservation Overlay District.

(e) No part of the nonconforming structure is in the Floodplain Conservation Overlay District.

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(f) The expanded nonconforming structure shall not create a greater impact on traffic, parking, noise, or nighttime lighting.

C. Nonconforming signs. Signs lawfully in existence before the adoption of regulations which made them nonconforming shall be permitted to continue in existence and be maintained.

(1) No change in type, size of message area and/or support structure, height, location, message, illumination, number, or material shall be permitted without application to and approval from the Town.

(2) Nonconforming aspects of the sign may continue, but no additional types of nonconformity shall be created by any change.

(3) Permitted changes may allow reduction in any one or more nonconforming aspects, but shall not allow any nonconforming aspect of the sign to become increasingly nonconforming.

(4) If a nonconforming sign is abandoned, the grandfathered rights shall terminate and any replacement shall comply with the requirements of this chapter.

D. Nonconforming lots. The following control nonconforming lots:

(1) An undeveloped, nonconforming lot may continue to exist indefinitely, unless it is less than 70% of the applicable minimum lot size and is or becomes under the same ownership as an adjoining lot, whether or not that adjoining lot is nonconforming. When common ownership occurs, the two adjoining lots shall be considered a single lot. Upon any Town official or board determining that such condition exists, the official or board shall notify, in writing, the owner, Tax Assessor, Zoning Officer, Board of Selectmen and Planning Board. The act of combining the lots shall be considered a decision of the Zoning Officer, and appeals shall follow the provisions of RSA Ch. 677.

(2) No action shall be permitted to change the boundary of the lot unless it brings the lot closer to conformance with this chapter and it makes no other aspect of the lot and/or all structures thereon more nonconforming.

(3) New structures are permitted on nonconforming lots only if the following conditions are met:

(a) Sanitary water supply and sewage disposal are provided for any primary structure; and

(b) The proposed structure meets all setback requirements.

(4) In the Shoreline Protection District, preexisting lots with insufficient acreage may be permitted to be built upon if granted a special exception. The Zoning Board of Adjustment shall grant a special exception only if the following conditions are met:

(a) There is a state-approved subsurface sewage system or connection to a municipal sewer.

(b) Any building to be erected shall be configured and located on the lot to create the maximum shoreline setback practical. If appropriate, any non-shore setback may be reduced by up to 50% to facilitate maximum shoreline protection.

(c) Clearing of lots may be limited by the Zoning Board of Adjustment as a condition of approval so as to prevent erosion and runoff into the Great Pond.

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§ 190-31. Definitions.

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

ABANDONMENT — An intentional action to abandon or relinquish the use of a property in which some overt act or failure to act carries the implication that the owner neither claims nor retains any interest in the use.

ACCESSORY AGRICULTURE SOLAR — Any ground-mounted or roof-mounted solar collection system designed to primarily reduce on-site consumption of utility power and without a limit to the rated nameplate capacity or solar land coverage provided the existing agricultural use is preserved at the time of installation.**[Added 5-12-2020 ATM by Art. 3]**

ACCESSORY BUILDING OR USE — A building or use subordinate and customarily incidental to the main building or use on the same lot.

ACCESSORY DWELLING UNIT (ADU) — A dwelling unit accessory to a single-family dwelling or duplex, either attached or detached. Such dwelling units shall be not less than 300 square feet and no greater than 1,000 square feet; provided any second accessory dwelling unit shall be not less than 300 square feet and no greater than 850 square feet.**[Amended 4-9-2019 ATM by Art. 2; 4-9-2024ATM by Art. 21]**

AGRICULTURAL BUILDING — A building used for the storage of farm products, animal feed, stabling horses, for the housing of farm animals or farm equipment, forestry-related buildings and horticultural buildings. Such buildings must be accessory to an active, ongoing agricultural operation. Garages and sheds on properties which are used primarily residentially are not agricultural buildings.

APPENDAGE — A sign which is attached directly to or under a freestanding or projecting sign.

ARTERIAL — A street that is used or will be used primarily for through-traffic flow. These streets are Route 16, Route 113, Route 153, Route 302, Kancamagus Highway, West Side Road and River Road.

BASE FLOOD — The flood having a one-percent probability of being equaled or exceeded in any given year.

BASEMENT — Any area of a building having its floor subgrade on all sides.

BED-AND-BREAKFAST — Any dwelling in which transient lodging or boarding and lodging are provided and offered to the public by the owner for compensation. This dwelling shall also be the full-time, permanent residence of its owner; otherwise it shall be classified as a hotel/motel. There shall be no provisions for cooking in any individual guest room.

BOARDINGHOUSE/ROOMING HOUSE — A dwelling operated as a business or on a not-for-profit basis providing rooms for rent on a daily, weekly, or other basis. The rooms do not include cooking facilities and thus are not individual dwelling units. Meals may or may not be provided by the owner/operator. Such rooms generally serve as the primary residence (of whatever duration) for the occupants though they may be available also as lodging for visitors.**[Added 4-11-2023ATM by Art. 5]**

BOAT STORAGE SHED — A structure used exclusively for the storage of boats and accessory equipment, having no plumbing or heating installed, having a floor are of 250 square feet or less, and being no more than 15 feet in height.**[Amended 4-9-2024ATM by Art. 20]**

BUFFER — The area between the property boundaries and the front, sideline and back lot line setbacks as specified for size and use in this chapter and Chapter 110, Site Plan Review, of the Conway Code.

BUFFER/SPECIAL HIGHWAY CORRIDOR DISTRICT — A protective buffer strip naturally vegetated and/or planted with native or indigenous saplings, shrubs and ground covers displaying a typical woodland

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appearance appropriated to the condition and said type of the landforms. The purpose of the buffer is to provide a scenic, largely rural road corridor that is screened from view of development that abuts the highway corridor.

BUFFER/WETLAND — A naturally occurring undeveloped area bordering a wetland that serves to lessen the impact of disturbance; e.g., urban development and agriculture. This buffer shall consist of a natural area consisting of various species of trees, saplings, shrubs and ground cover in any combination and between any stages of growth.

BUILDING — An independent structure having a roof and any extensive additions thereto. It shall include a house trailer and a mobile home when used as a residential unit, but shall not include a travel trailer used as a temporary residence incidental to travel, recreation or vacation and not permanently hooked up to facilities necessary for usual year-round occupancy.

BUILDING FOOTPRINT — See "footprint."

BUILDING HEIGHT — The vertical distance from the lowest point of grade around the building to the mean gable elevation of the building, or to the top of a flat roof. The lowest point of grade shall be the lowest point at which the foundation is above the proposed or existing grade, whichever is less.

CARETAKER'S RESIDENCE — An accessory residential unit on a nonresidential premises, occupied by the person who oversees the nonresidential operation 24 hours a day and his or her family.

CARPORT MOUNT — Any solar collection system of any size that is installed on the roof structure of a carport over a parking area.**[Added 5-12-2020 ATM by Art. 3]**

CASINO — A non-charitable facility whose principal use is for the conduct of games of chance and/or gambling.**[Added 4-9-2024ATM by Art. 10]**

CHANGEABLE COPY — A sign, or portion thereof, with manually changeable lettering or display. This shall not include electronic-type displays with changeable messages.

CHARITABLE FUNDRAISING EVENT — An event held by a charitable organization for any benevolent, philanthropic, patriotic, educational, humane, scientific, public health, environmental conservation, civic, or other charitable purpose. The basis of any solicitation shall be solely for a charitable purpose and may include games of chance.**[Added 4-9-2024ATM by Art. 12]**

CHARITABLE GAMING FACILITY — A facility conducting games of chance for the benefit of nonprofit organizations which engage in any game involving gambling or lottery prohibited by RSA 647:1. Facilities are required to be licensed by the State of New Hampshire pursuant to RSA 287-D:7, excluding halls owned by any charitable organization or governmental subdivision and shall meet Administrative Rules of Chapter Lot 7200, Games of Chance.**[Added 4-9-2024ATM by Art. 4]**

CHARITABLE ORGANIZATION — A bona fide religious, charitable, civic, veterans', or fraternal or church organization, including police and firemen's organizations which shall have been registered with the Secretary of State for at least two years. A charitable organization shall not include auxiliary units, committees, or other entities organized under the auspices of a charitable organization eligible for State of New Hampshire licensure, when such auxiliary unit, committee, or other entity is organized for the primary purpose of conducting games of chance.**[Added 4-9-2024ATM by Art. 5]**

COLLECTOR — A street that is used or will be used primarily for connecting local street traffic to the arterial street system. These are Mill Street (Center Conway), Old Mill Road, Brownfield Road, Tasker Hill Road, Passaconaway Road, Still Road, East Conway Road, Dolloff Hill Road, Stark Road, Rockhouse Mountain Road and West Main Street.

COMMERCIAL AMUSEMENT FACILITY — Any commercial use which offers for hire or to the

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general public access to structures, vehicles, mechanical or electrical contrivances, or other facilities which are intended primarily to provide entertainment, amusement or recreation, and in which the patron is engaged on the premises as an active participant rather than as a spectator. This shall not include volleyball, tennis or basketball courts, baseball, football or soccer fields, other similar sporting fields, or commercial golf facilities as regulated in the underlying district, or any facility conducting games of chance, and shall exclude special events as permitted by the Board of Selectmen.[53] **[Amended 4-9-2024ATM by Art. 11]**

COMMERCIAL BINGO HALL — Any hall owned or leased by an individual, corporation, realty trust, partnership, association, or any other person who rents or leases the hall to a charitable organization for the operation of bingo or Lucky 7 games, excluding halls owned by any charitable organization or governmental subdivision.**[Added 4-9-2024ATM by Art. 7]**

COMMERCIAL SOLAR — A use of land that consists of one or more freestanding, ground-mounted solar collection systems with a rated nameplate capacity of up to 1 MW AC and that is less than five acres in solar land coverage.**[Added 5-12-2020 ATM by Art. 3]**

COMMUNITY SOLAR — A use of land that consists of one or more freestanding, ground-mounted solar collection systems regardless of nameplate capacity that is up to 100 kW AC and that is less than one acre of solar land coverage.**[Added 5-12-2020 ATM by Art. 3]**

CONDOMINIUM — A special system of real property ownership that includes individually owned units and areas owned in common by the unit owners ("common areas").**[Added 4-11-2023ATM by Art. 9]**

CREMATORIUM — An establishment or structure in which human remains are cremated in a cremation retort.**[Added 4-9-2024ATM by Art. 15]**

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

DIMENSIONAL NONCONFORMITY — That aspect of a lot or structure which does not comply with the dimensional requirements of this chapter, including but not limited to height, setback, frontage or area.

DIRECT GLARE — Illumination beyond property lines caused by direct specularly reflected rays from incandescent, fluorescent or arc lighting.

DOMESTIC ANIMALS — Dogs, cats, non-poultry birds, reptiles, exotics, ferrets, descented skunks, nine or fewer rabbits and nine or fewer fur-bearers other than rabbits.

DOMESTIC FARM ANIMALS — Horses, ponies, cattle, swine, deer, bison, greater than nine fur-bearers, sheep, goats, llamas, ratites, poultry or greater than nine rabbits.

DUPLEX — A structure containing two separate residential dwelling units.**[Added 4-11-2023ATM by Art. 6]**

EDGE OF WATER — Shall be determined by the normal high-water mark, defined herein.

EDGE OF WETLAND — Shall be determined by the criteria established in and defined by the Corps of Engineers Wetlands Delineation Manual Technical Report Y-87-1, Environmental Laboratory, Department of the Army, 1987 and Regional Field Indicators for Identifying Hydric Soils in New England, New England Interstate Water Pollution Control Commission, 1998.

ESTABLISHMENT OF A SEXUALLY ORIENTED BUSINESS —

A. The opening or commencement of any sexually oriented business as a new business;

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

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B. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

C. The relocation of any sexually oriented business; or

D. The substantial enlargement of a sexually oriented business, which means the increase in floor areas occupied by the business by more than 25%, as the floor area exists on the date of the adoption of this chapter.

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

FEATHER FLAG — A vertical portable sign that contains a harpoon-style pole or staff driven into the ground for support or supported by means of an individual stand. (See Figure 2.)**[Added 4-14-2015 ATM by Art. 2]**

Figure 2



FIRM — Flood Insurance Rate Map, an official map incorporated within this chapter, on which FEMA has delineated both the special flood hazard areas and the risk-premium zones applicable to the Town of Conway.

FLAG — A piece of flexible fabric of distinctive design which is used as a symbol of a nation, state, province, county, town or religion, or which uses color, form, graphic, symbol, or writing to communicate information of any kind to the public, whether commercial or noncommercial. Excluded from this definition are feather flags as otherwise defined herein.**[Amended 4-14-2015 ATM by Art. 2]**

FLOOD INSURANCE STUDY (FIS) — An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations; or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

FLOODPLAIN — Land subject to a one-percent-or-greater chance of flooding in any given year which is designated as Zone A and/or AE on the Flood Insurance Rate Map.

FLOODWAY — The channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the flood having a one-percent chance of being equaled or exceeded in any given year without cumulatively increasing the water surface elevation more than one foot.

FOOTPRINT — The portion of a lot covered by all portions of any structure, including decks, porches, cantilevered sections and roof overhangs.

FREESTANDING SIGN — A self-supporting sign not attached to any building, wall or fence, but in a fixed location. This does not include movable signs.

FRONT SETBACK — The setback from a property line along a road right-of-way.

FUNCTIONALLY DEFICIENT — A septic system that fails to operate properly due to inability to handle sewage loads, improper design, construction, maintenance or operation, but shall not include a system that only fails to meet present state design standards. (See RSA 485-A:29 through 485-A:44 and NH Code of Administrative Rules Env-Ws 1000, requirements for subsurface waste water treatment.)

FUNERAL HOME — An establishment with facilities for burial or cremation preparation of the deceased

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and for memorial services.**[Added 4-9-2024ATM by Art. 15]**

GAMBLING — Games involving a risk of value upon a future contingent event not under one's control, upon an agreement or understanding that something of value will be received in the event of a certain outcome.**[Added 4-9-2024ATM by Art. 9]**

GAME OF CHANCE — Any game involving gambling as defined by RSA 647:2, II, 17 or any lottery prohibited by RSA 647:1, but shall not include any game involving the use of a slot machine or any other device in the nature of a slot machine, 50/50 raffles as defined in RSA 19 287- A:1, III, or ice-out contests as defined in RSA 287-D:1, VI.**[Added 4-9-2024ATM by Art. 8]**

GREAT POND — A water body of more than 10 acres in the natural condition.

GROUND MOUNT — A solar collection system and associated mounting hardware that is affixed to or placed upon (such as ballasted systems) the ground including but not limited to fixed, passive or active tracking racking systems.**[Added 5-12-2020 ATM by Art. 3]**

HAZARDOUS MATERIALS — Those chemicals or substances which are physical hazards or health hazards as defined in the currently adopted version of the State Building Code, whether the materials are in a usable or waste condition.**[Amended 4-11-2017 ATM by Art. 2]**

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

HELIPORT; HELIPAD; HELISTOP — Any landing or take-off area intended for use by helicopters or other rotary-wing-type aircraft capable of vertical take-off and landing profiles.

A. Neighborhood.

   (1) General: those in the immediate vicinity of a development site, i.e., abutters.

   (2) As it relates to aircraft activities: area within a five-thousand-foot radius of the development site.

B. Private/Business accessory use: available for the exclusive use of the business as an accessory for personal transportation purposes in conjunction with the operation of that business. Such uses shall not include scenic tours or chartered flight operations.

C. Private/Noncommercial accessory use: available for the exclusive use of the owner on personally owned land or other persons authorized by the owner for noncommercial use and for no financial gain.

D. Private/Public commercial use: available for use in aircraft operations for profit; those which, for a fee, provide air transportation for the public and/or transport goods and materials. This includes, but is not limited to, charter transportation, scenic tour flight operations, and other similar activities.

HISTORIC STRUCTURE — Any structure that is:

A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by

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the Secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1) By an approved state program as determined by the Secretary of the Interior; or

(2) Directly by the Secretary of the Interior in states without approved programs.

HOME OCCUPATION — An occupation or profession which is carried on in no more than 50% of the square footage of the total square footage, or 1,500 square feet, whichever is less, of a detached, single-family dwelling unit by the full-time, permanent occupant of the dwelling which does not change the character thereof. By way of illustration, home occupations shall include, but not be limited to: the preparation of foods such as breads, cookies and jellies; construction of birdhouses and other small-scale wood products; quilting; fishing lure assembly, etc. The term "home occupation" shall include both professional and personal services, provided that they meet the other criteria set forth in this chapter. Retail sales shall be allowed only in situations where the product sold is produced entirely on-site.

HOTEL/MOTEL — A commercial building or group of buildings built to accommodate, for a fee, travelers and other transient guests who are staying for a limited duration with sleeping rooms, each rental unit having its own private bathroom and a common corridor or hallway. A hotel may include restaurant facilities where food is prepared and meals are served to its guests and other customers.

INDUSTRIAL SOLAR — A use of land that consists of one or more freestanding, ground-mounted solar collection systems regardless of nameplate capacity that is between 35 acres and 50 aces in solar land coverage.**[Added 5-12-2020 ATM by Art. 3]**

INTERMEDIATE BUSINESS — Any business with between 30,000 square feet and 1,500 square feet of gross floor area.

KENNEL — An establishment or domicile which houses 10 or more domestic animals for any period of time. Kennels shall include any establishment as defined by RSA 466:4.III, Commercial Kennels; and are subject to RSA 466:6, Group Licensing.**[Added 4-9-2024ATM by Art. 17]**

LARGE COMMERCIAL SOLAR — A use of land that consists of one or more freestanding, ground-mounted solar collection systems with a rated nameplate capacity of between 1 MW and 5 MW that is between five and 35 acres in solar land coverage.**[Added 5-12-2020 ATM by Art. 3]**

LEVEL OF SERVICE (LOS) — A set of qualitative and quantitative criteria that describe the degree to which an intersection, roadway, weaving section or ramp efficiently serves peak hours and/or daily traffic. Level of service calculations shall follow the 1985 Highway Capacity Manual, Chapter 9, Operational Procedure for Signalized Intersections, as amended.

Level of Service Criteria for Signalized Intersections

Level of Service	Stopped Delay per Vehicle (seconds)
A	Less than or equal to 5
B	5.1 to 15
C	15.1 to 25

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Level of Service Criteria for Signalized Intersections

Level of Service	Stopped Delay per Vehicle (seconds)
D	25.1 to 40
E	40.1 to 60
F	Greater than 60

LIGHT INDUSTRY — The assembly, manufacture, processing, packaging or other industrial operations conducted in such a manner that all resulting cinders, dust, fumes, gas, odors, smoke and vapor are effectively confined to the premises or disposed of so as to avoid any air, ground or water pollution and conducted in such a manner that noise, light and vibrations will not be a nuisance or otherwise detrimental to abutting properties; a use involving the manufacture of a product not requiring heavy, noisy, or otherwise objectionable machinery or transporting equipment.

LOCAL/NEIGHBORHOOD STREETS AND ROADS — A street used primarily for direct access to property and not used for through-traffic flow. These streets are all those not designated as arterial or collector.

LOT — An area of land in one ownership, or one leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by the Planning Board and recorded in the Carroll County Registry of Deeds.

LOT, MINIMUM SIZE — The required lot area within a specific zoning district for a single use.

LOWEST FLOOR — The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such an enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

MAJOR BUSINESS — Any business with more than 30,000 square feet of gross floor area.

MALL — One building or several attached or detached buildings on one lot, including courtyards, whether or not covered, substantially surrounded by buildings in which two or more businesses are located and each business does not have a separate entrance or exit for public use fronting on a street or parking lot.

MANUFACTURED HOME — Any structure meeting the federal Manufactured Home Construction and Safety Standards Act,[54] commonly known as the "HUD Code," transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width and 40 body feet or more in length, or when erected on site has at least 320 square feet of habitable space, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical systems contained therein. Manufactured housing as defined here does not include presite built housing as defined in RSA 674:31-a.**[Amended 4-11-2023ATM by Art. 3]**

MOBILE HOME — A single, complete and livable prefabricated residential unit, suitable for transport on wheels on its own chassis, regardless of whether or not left on wheels, and requiring connection to water, power and sewage disposal systems for proper occupancy.

MOBILE HOME PARK — A parcel of land, under single ownership, with accommodations for two or more mobile homes, travel trailers or recreational vehicles in use as dwellings, regardless of whether or not

54. Editor's Note: See 42 U.S.C. § 5401 et seq.

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a charge is made for such accommodations.

MOBILE HOME SPACE — An area in a mobile home park designed to accommodate one mobile home stand and its related yards and other open space.

MOBILE HOME STAND — An area in a mobile home space upon which a mobile home is to be stationed.

MODULAR HOUSING OR STRUCTURE (or PRESITE BUILDING STRUCTURE) — Any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property standards and local building codes for installation, or assembly and installation, on the building lot. A modular home is separate and distinct from a manufactured housing unit.**[Added 4-11-2023ATM by Art. 4]**

MOVABLE SIGN — A sign capable of being readily moved or relocated, including portable signs mounted on a chassis and wheels, or supported by legs.

MULTIRESIDENTIAL UNITS — Units providing living quarters for two or more housekeeping units, such as, but not limited to, condominiums, clustering units, common-wall or row-type housing units, such as duplex or multihousekeeping units of the same nature, time-share arrangements in any type of housekeeping unit.

MUNICIPAL — Of or relating to the internal affairs of a major political unit, having a chartered local self-government.

NEW CONSTRUCTION — For the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NONCONFORMING LOT — A lot which does not comply with the dimensional requirements of this chapter.

NONCONFORMING STRUCTURE — That portion of a structure which does not comply with the requirements of this chapter.

NONCONFORMING USE — A use which is not permitted in the zoning district in which it is occurring.

NONCONFORMITY — A nonconforming use, structure or lot which was lawfully in existence prior to the enactment of the zoning requirement which made it nonconforming.

NORMAL HIGH-WATER MARK — The elevation of a body of water or watercourse as measured by the average natural high-water mark or to the average high-water mark when flowed by artificial means, such as by a dam.

A. For Conway Lake, the normal high-water mark shall be 436.3 feet, which is the elevation of the water at the spillway of the dam.

B. For Pequawket Pond, the normal high-water mark shall be 458 feet.

C. For Dolloff Pond, the normal high-water mark shall be 550 feet.

D. For Echo Lake, the normal high-water mark shall be 510 feet.

E. For Puddin' Pond, the normal high-water mark shall be 537 feet.

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F. For Labrador Pond, the normal high-water mark shall be 550 feet.

OFF-SITE COMMERCIAL SIGN — A sign with a commercial message relating to a commercial activity not conducted on the lot.

OFF-SITE SIGN — A sign which is not located on the lot to which its message refers.

ORIGINAL LOT OF RECORD — The original lot or lots of record, on which a nonconforming use is located, which existed on the date of passage of the zoning requirement which made the use nonconforming.

OUTDOOR DINING ESTABLISHMENT — An area on private property, a public sidewalk, or public way where patrons may consume food and/or beverages provided by a licensed restaurant. Such restaurants may either provide table service in the outdoor dining areas or sell take-out items to be consumed within the outdoor dining area.**[Added 4-9-2024ATM by Art. 18]**

OWNER-OCCUPIED LODGING HOUSE AND/OR OWNER-OCCUPIED BOARDINGHOUSE — Any place consisting of a room or group of rooms located on one premises where regular, nontransient-type accommodations for sleeping or living purposes, together with meals, are offered for compensation, provided that the same is occupied and operated conjunctively by the owner, an individual person or persons, and shall not have more than four double-occupancy sleeping units.

OWNER-OCCUPIED TOURIST HOME AND/OR OWNER-OCCUPIED ROOMING HOUSE — Any place consisting of a room or a group of rooms located on one premises where transient or semi-transient accommodations for sleeping or living purposes are offered for compensation, provided that the same is occupied and operated conjunctively by the owner, an individual person or persons, and shall not have more than four double-occupancy sleeping units.

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

PARKWAY — A landscaped thoroughfare, most commonly a road with no curb cut and/or crossroad access, that has a protected vegetated buffer along either side for the purpose of maintaining scenic beauty. Vehicles with more than two axles are prohibited from driving on parkways.**[Added 4-9-2024ATM by Art. 13]**

PRIMARY AGRICULTURE SOLAR — Any ground-mounted solar collection system that is partially used to reduce on-site consumption of utility power and with a rated nameplate capacity up to 1 MW AC in size or has a solar land coverage in excess of five acres provided the existing agricultural use is preserved at the time of installation.**[Added 5-12-2020 ATM by Art. 3]**

PRIVATE EDUCATIONAL FACILITY — A non-government owned and operated facility used for purposes of teaching, studying, and learning.

PROJECTING SIGN — A sign which is affixed to a building and which extends more than 12 inches beyond the surface to which it is affixed.

PUBLIC OR INSTITUTIONAL EVENT — An event sponsored, run by, and benefiting a public or institutional entity. This shall not include any event which is conducted primarily as a business activity.

RATED NAMEPLATE CAPACITY — Maximum rated alternating current ("AC") output of solar collection system based on the design output of the solar system.**[Added 5-12-2020 ATM by Art. 3]**

RECREATIONAL VEHICLE — A vehicle or vehicular attachment designed for temporary sleeping or living quarters for one or more persons, which is not a dwelling and which may include a pickup camper, travel trailer, tent trailer or mobile home.

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RESIDENTIAL DWELLING UNIT — A single unit providing a room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating for the exclusive use for one or more persons living as a household.**[Amended 4-11-2023ATM by Art. 8]**

RESIDENTIAL DWELLING UNIT – MULTIFAMILY — A building or portion thereof containing three or more residential units with separate cooking and toilet facilities for each dwelling on one individual lot.**[Added 4-11-2023ATM by Art. 7]**

RESIDENTIAL SOLAR — Any ground-mounted or roof-mounted solar collection system primarily for on-site residential use, and consisting of one or more freestanding, ground- or roof-mounted, solar arrays or modules, or solar-related equipment, intended to primarily reduce on-site consumption of utility power and with a rated nameplate capacity of 10 kW AC or less per on site dwelling unit and that has 500 square feet or less of solar land coverage per on-site dwelling unit.**[Added 5-12-2020 ATM by Art. 3]**

ROOFLINE — The profile of a roof. In the case of features extending above the roofline, the profile shall be from whatever direction is the most restrictive.

ROOF MOUNT — A solar collection system that is structurally mounted to the roof of a building or other permitted structure, including limited accessory equipment associated with system which may be ground-mounted. For purposes of calculating array sizes or solar land coverage under the solar definitions in this section, roof-mounted portions shall not be included if the system is made up of both roof- and ground-mounted systems, the roof-mounted portions shall also be excluded.**[Added 5-12-2020 ATM by Art. 3]**

SCENIC TOUR OPERATION — Any sightseeing flight conducted under visual flight rules in any type of aircraft for compensation or hire. Flights may be provided on a regular schedule or at varying frequencies based on passenger demands.

SCENIC VIEW OR VISTA SHED, SPECIAL HIGHWAY CORRIDOR DISTRICT — A vantage point with unique natural beauty for drivers on the highway or pedestrians in the district, which can best be appreciated by modifications to the protective buffer. Modifications to the buffer may include reducing or thinning the forested natural area or replacing forested vegetative material with other appropriate vegetative material in order to promote the vantage point.

SEASONAL STREAMS — A free-flowing body of water (i.e., a river, brook or tributary) which only runs for a part of the year.

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

SENIOR HOUSING UNIT — A dwelling, or portion thereof, capable of providing living quarters limited to two adults per unit, having a minimum age of 62 years old. Said dwelling unit(s) must be within a single building having at least 25 separate units under the same roof. Said building must provide for a commercial kitchen and common dining facility as a minimum. Said senior housing units shall be exempt from provisions under the existing definition of "residential unit," which is defined as a unit providing a kitchen. Senior housing units within such an aforementioned age-restricted retirement housing complex shall be allowed to have separate individual kitchens. For density purposes, the overall building housing all said individual dwelling units within said building under the same roof will be considered one unit.

SEPTIC SYSTEM — Any subsurface method of disposing of residential or commercial wastewater.

SETBACK — The minimum distance which buildings and structure are required to be set back from the nearest lot line (rear or side), measured at right angles or radial thereto. Setbacks from a road shall be measured from the nearest edge of the right-of-way of such road in the same manner. Where the edge of the road right-of-way is not shown on a recorded plan, then such edge shall be deemed to be located 30

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feet from the center of the traveled portion of said road unless the right-of-way of such road can be shown to be wider than 60 feet. A road shall include either a public or a private right-of-way.

SEXUALLY ORIENTED BUSINESS — Any place of business in which any of the following activities are conducted:

A. ADULT BOOKSTORE OR ADULT VIDEO STORE —

(1) A business that devotes more than 15% of the total display, shelf, rack, table, stand or floor area, utilized for the display and sale of the following:

(a) Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, videocassettes, slides, tapes, records, CD-ROMs, or other forms of visual or audio representations which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1; or

(b) Instrument, devices, or paraphernalia which are designed for use in connection with "sexual conduct" as defined in RSA 571-B:1, other than birth control devices.

(2) An adult bookstore or adult video store shall not be deemed to include a business selling or distributing books, magazines and periodicals which are a minor, incidental part of its principal stock-in-trade (meaning its inventory) so long as said business shall devote less than 15% of its total display, shelf, rack, table, stand or floor area utilized for the sale and display of such items, including those items otherwise defined under Subsection A(1)(a) and (b) above. In establishing the percentages of utilization of any display, shelf, rack, table, stand or floor area hereunder, the burden of proof hereof shall rest on the business which claims an exemption from said definition above, which proof must be established by clear and convincing evidence.

B. ADULT MOTION PICTURE THEATER — An establishment with a capacity of five or more persons, where, for any form of consideration, films, motion pictures, videocassettes, slides or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1, for observation by patrons. For the purposes of this chapter, "substantial portion of the total presentation time" shall mean the presentation of films or shows described above for viewing on more than seven days within any fifty-six-consecutive-day period.

C. ADULT MOTION PICTURE ARCADE — Any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically or mechanically controlled still or motion-picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, in which a substantial portion of the total presentation time of the images so displayed is devoted to the showing of materials which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1.

D. ADULT DRIVE-IN THEATER — An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions, and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats, in which a substantial portion of the total presentation time being presented for observation by patrons is devoted to the showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1.

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E. ADULT CABARET — A nightclub, bar, restaurant, or similar establishment which, during a substantial portion of the total presentation time, features live performances which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1, and/or feature films, motion pictures, videocassettes, slides or other photographic reproductions, a substantial portion of the total presentation time of which is devoted to showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1.

F. ADULT THEATER — A theater, concert hall, auditorium or similar establishment, either indoor or outdoor in nature, which, for any form of consideration, regularly features live performances, a substantial portion of the total presentation time of which is distinguished or characterized by an emphasis on activities which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1. For the purposes of this chapter, "substantial portion of the total presentation time" shall mean the presentation of films or shows described above for viewing on more than seven days within any fifty-six-consecutive-day period.

G. SEXUAL ENCOUNTER CENTER — A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(2) Activities between male and female persons and/or persons of the same sex when one or more persons is in the state of nudity; and

(3) When the activities in Subsection G(1) and (2) above are characterized by an emphasis on activities which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1.

SHOPPING CENTER — One building or several attached or detached buildings on one lot in which two or more businesses are located and each business has a separate entrance and exit fronting a street or parking lot.

SHORELINE — The edge of water of all perennial streams and rivers, lakes and ponds not protected by the Shoreline Protection District.

SIDE OR BACK SETBACK — The setback from a property line other than a front setback.

SIDEWALK — Any public or private way or thoroughfare, paved or unpaved, intended for the use of pedestrians or foot traffic.

SIGN — Any device, fixture, placard, structure or attachment thereto that uses color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of any person or entity, or to communicate information of any kind to the public, whether commercial or noncommercial. Any portion of any awning, either freestanding or attached to a structure, decorated with any sign element, either attached or part thereof, shall be considered a wall sign.

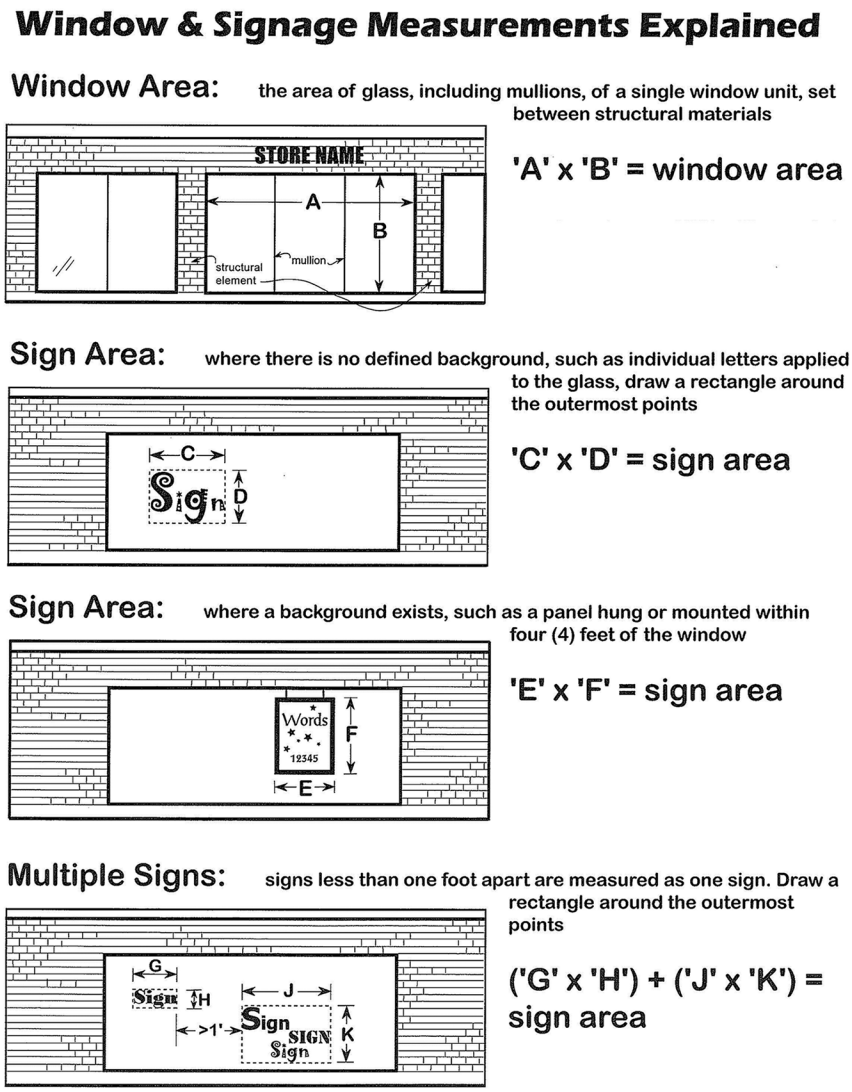
SIGN HEIGHT — The measurement from the undisturbed ground directly under the sign to the top of the message area.

SIGN MAINTENANCE — Repainting; other surface renewal; change of message on the same surface; replacement of any sign surface, support framework or component with substantially similar construction material or component.

SIGN MESSAGE AREA — The total area used to display a sign's message, including all lettering, designs,

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symbols, and logos, together with but not including any support framework or bracing which is incidental to the sign and which is not designed to attract attention. Where the message area consists of letters, symbols, logos or devices affixed to the surface of a wall, building, awning or window, the message area shall be measured by a single, continuous, rectangular perimeter drawn to enclose the extreme limits of the sign elements. The message area of one side of a double-faced sign shall be regarded as the total message area of the sign. For double-faced signs, each face must be attached directly to the other. Window signs less than one foot apart are measured as a single sign; otherwise, the sum of the rectangles of window signage constitute a window's sign message area.**[Amended 4-12-2016 ATM by Art. 4]**



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

SMALL BUSINESS — Any business with less than 1,500 square feet of gross floor area.

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

SOLAR COLLECTION SYSTEM — Includes all equipment required to harvest solar energy to generate

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electricity. The solar collection system includes storage devices, power conditioning equipment, transfer equipment, and parts related to the functioning of those items. Solar collection systems include only equipment up to (but not including) the stage that connection is made to the utility grid or site service point.**[Added 5-12-2020 ATM by Art. 3]**

SOLAR LAND COVERAGE — Is defined exclusively for the purposes of calculating the footprint of the land area occupied be the components of a solar array. The "solar land coverage" is the land area that encompasses all components of the solar collection system including but not limited to mounting equipment, panels and ancillary components of the system. This definition does not include access roads or fencing and is not to be interpreted as a measurement of impervious surface as it may be defined in this chapter.**[Added 5-12-2020 ATM by Art. 3]**

SOLAR POWER GENERATION STATION — Any solar collection system that is over 30 MW in nameplate capacity. In no case shall a solar power generation station exceed 150 acres.**[Added 5-12-2020 ATM by Art. 3]**

SPECIAL FLOOD HAZARD AREA — Any area having flood, mudslide and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-A30, AE, A99, AH, VO, V1-V30, VE, V, M or E.

SPECIAL HIGHWAY — The entire layout of the public road which travels along and within the Special Highway Corridor District; sometimes referred to as the "Conway Bypass."

SPORTS BETTING FACILITY — A facility licensed by the State of New Hampshire which conducts sports wagering as authorized by RSA 287-I. Sports betting facilities include sports book retail locations and mobile sports waging.**[Added 4-9-2024ATM by Art. 6]**

START OF CONSTRUCTION — Includes substantial improvements, and means the date the building permit was issued, provided that the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

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

STORAGE SHED — A structure having no plumbing or heating installed, having a floor area of 125 square feet or less, being no more than 15 feet in height and used to store equipment of a residential nature owned by the occupant of the principal residential unit on the property.

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

STRUCTURE — Anything constructed or erected, on or in the ground or in the water, or an attachment to something having a fixed location on the ground, including buildings, permanent or temporary; signs; carports; porches; and other building features, including stacks and antennas, but not including sidewalks; fences; driveways; septic systems; utility poles; boundary markers and field or garden walls or embankment retaining walls. For floodplain management purposes, a gas or liquid storage tank that is principally above ground is a structure.

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STRUCTURE HEIGHT — The vertical distance from the lowest point of grade at the base of the structure to the highest point of the structure. The lowest point of grade shall be the lowest point at which the foundation is above the proposed or existing grade, whichever is less.

SUBSTANTIAL DAMAGE — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would be equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT —

A. Any repair, reconstruction or improvement of a structure, the cumulative cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. In the case of damage, the value of the structure prior to the damage occurring is:

   (1) The appraised value prior to the start of the initial repair or improvement; or

   (2) The value of the structure prior to the damage occurring.

B. For the purposes of the definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures that have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

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

TENT — Any structure with fabric or nonrigid walls or roof or both, which provides or is intended to provide temporary shelter.

THREE-DIMENSIONAL ENVELOPE — The volume and shape enclosed by the exterior dimensions of a building or other structure in plan and elevation views (length, width, height). All appurtenant structures, including but not limited to decks, greenhouses and bay windows, shall be included in the three-dimensional envelope. Any increase in volume or change in the shape shall be considered expansion.

TOWNHOUSE — A one-family dwelling unit which is part of a group of two or more such units separated by a common party wall having no doors, windows, or other provisions for human passage or visibility. Each unit shall have individual outside entrances at ground level (which may face in different directions) and may have more than one level.**[Added 4-11-2023ATM by Art. 10]**

TRADESMAN — A workman in a skilled trade, such as a carpenter, plumber, electrician, carpet layer, shoe repairman, furniture restorer or cabinetmaker.

TRANSIENT ACCOMMODATIONS — Living quarters which do not have a kitchen as defined in "residential unit." Such accommodations are not counted as residential units for density purposes, but rather are part of, or all of, a nonresidential use on the lot.

TRAVEL TRAILER — A vehicular portable structure, which may legally be moved on its own wheels, being a vehicle designed as a temporary dwelling for travel, recreation or vacation use.

TWO-DIMENSIONAL FOOTPRINT — The area and shape defined by the exterior dimensions of a building or other structure in plan view. All appurtenant structures, including but not limited to decks,

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greenhouses and bay windows, shall be included in the two-dimensional footprint. Any increase in area or change in the shape shall be considered an expansion.**[Amended 4-11-2017 ATM by Art. 2]**

UNIT — A measure of land use density. Each building, excluding accessory buildings, with any nonresidential use(s) shall constitute one unit. Each residential unit shall constitute one unit. In cases where one structure facilitates both nonresidential and residential uses, the total number of units shall be equal to the sum of one for the structure plus one for each residential unit.

UTILITY POLE — A structure which is owned by a government agency or utility company and which is used to support lines and other equipment carrying electricity or communications.

UTILITY SOLAR — A use of land that consists of one or more freestanding, ground-mounted solar collection systems regardless of nameplate capacity that is over 50 aces in solar land coverage and less than 30 MW in rated nameplate capacity.**[Added 5-12-2020 ATM by Art. 3]**

VIOLATION — The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by Chapter 44 of the Code of Federal Regulations, § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5), is presumed to be in violation until such time as that documentation is provided.

WALL SIGN — A sign affixed to the wall of a building or to an awning, provided the sign does not extend more than 12 inches beyond the surface to which it is attached.

WATERCOURSE — All rivers, streams, brooks or other tributaries which flow year-round. These include all watercourses shown on the Map of Conway, New Hampshire, prepared by James W. Sewell Company, Old Town, Maine, dated 1964, as revised.

WETLAND BUFFER — See "buffer/wetland."

WETLANDS — Areas dominated by wetland characteristics; an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include, but are not limited to, swamps, marshes, bogs, and similar areas. (Ref. NH Code of Administrative Rules Envi 101.110)**[Amended 4-11-2017 ATM by Art. 2]**

WHOLESALE AND LIGHT INDUSTRY — Any manufacturing, research, warehousing, storage or wholesale operation which is nonpolluting in terms of air, water and noise and which, in general, is not offensive to the character of the community.

WINDOW SIGN — A regulated window sign is one that is located on or inside and within four feet of a window and is plainly visible from the exterior of the building.**[Amended 4-12-2016 ATM by Art. 4]**

WIRELESS COMMUNICATION FACILITY — Any tower, pole, antenna, accessway, or other structure intended for commercial use in connection with the transmission or reception of radio or television signals, or any other electromagnetic-spectrum-based transmission/reception.[55]

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55. Editor's Note: Original § 147.16 of the Town Code, Permitted Use Table, which immediately followed this section, was repealed 4-11-2017 ATM by Art. 2. See the Permitted Use Table included as an attachment to this chapter.

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