REVISED DRAFT

Revised Conway Zoning Ordinance

October 9, 2026

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Article 1. General Provisions

§ 190-1.1 Purposes.

The purposes of this chapter are to:

A. Promote the health, safety, and general welfare of the Town of Conway by facilitating the adequate provision of transportation, water, sewer, schools, parks, and child care;

B. Encourage the maintenance of Conway's economic and aesthetic quality of life;

C. Encourage the preservation of agricultural land and buildings;

D. To encourage the installation and use of solar, wind, or other renewable energy systems and protect access to energy sources; and

E. Encourage the most appropriate use of land throughout the Town.

§ 190-1.2 Authority.

This chapter is enacted under the authority granted in the New Hampshire Revised Statutes Annotated (RSA) 674:16, as amended.

§ 190-1.3 Title.

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

§ 190-1.4 Applicability.

All buildings or structures erected, reconstructed, altered, enlarged, or relocated, or all future use of premises, shall conform to the provisions of this chapter. This chapter shall not apply to existing buildings or structures, nor to the existing use of any building or structure or of land to the extent to which it is used at the time of enactment of this chapter.

§ 190-1.5 Amendments.

This chapter and its accompanying maps may be amended in accordance with the provisions of the applicable statutes of the State of New Hampshire.

§ 190-1.6 Interpretation.

The provisions of this chapter shall be interpreted as the minimum requirements adopted

to promote the health, safety, morals, and the general welfare of the Town. The provisions of this chapter are not intended to repeal or in any way impair or negate any other lawfully adopted ordinance, regulation, or rule. Whenever the regulations of this chapter differ from those prescribed by any ordinance or regulation, the more restrictive provision shall govern.

§ 190-1.7 Severability.

If any provision of this chapter is found by a court of competent jurisdiction to be invalid or unconstitutional, or if the application of this chapter to any person or circumstances is found to be invalid or unconstitutional, the invalidity or unconstitutionality shall not affect the other provisions or applications of this chapter which can be given effect without the invalid or unconstitutional provision or application.

Article 2. Establishment of Districts

§ 190-2.1 Use districts.

For the purposes of this chapter, the Town is divided into the following districts:

A. Residential districts.

(1) The Residential Agricultural (RA) District is primarily designed to accommodate a compatible mix of low-density residential and agricultural uses. These areas generally lack municipal sewer service and are not yet suitable for development at higher densities.

(2) The Conway Center Village Residential (CCVR) District is primarily designed to accommodate a compatible mix of low-density residential and agricultural uses. These areas generally lack municipal sewer service and are not yet suitable for development at higher densities.

(3) The Conway Village Residential (CVR) District is primarily designed to accommodate a mix of uses that complement the Village's residential neighborhoods. This area is generally served by municipal water and sewer services, thereby accommodating higher densities.

(4) The North Conway Village Residential (NCVR) District is primarily designed to accommodate a mix of uses that complement the Village's residential neighborhoods. This area is generally served by municipal water and sewer services, thereby accommodating higher densities.

B. Village commercial districts.

(1) The Conway Center Village Commercial (CCVC) District is primarily designed to accommodate a compatible mix of uses that complement commercial and residential uses typically associated with village centers.

(2) The Conway Village Commercial (CVC) District is primarily designed to accommodate a compatible mix of uses that complement commercial and residential uses typically associated with village centers. This district is served by municipal water and sewer and can accommodate higher-density development.

(3) The North Conway Village Commercial (NCVC) District is primarily designed to accommodate a compatible mix of uses that complement commercial and residential uses typically associated with village centers. This district is served by municipal water and sewer and can accommodate higher-density development.

C. Commercial and industrial districts.

(1) The Highway Commercial (HC) District is primarily designed to accommodate a compatible mix of uses that complement commercial and residential uses typically associated with transportation corridors, large traffic flows and convenient access. The areas of this district served by municipal water and sewer can accommodate higher-density development.

(2) The Industrial 1 (I1) District is primarily designed to accommodate a compatible mix of uses that complement commercial and light industrial uses. This district is serviced by municipal water and sewer and can accommodate development at higher densities.

(3) The Industrial 2 (I2) District is primarily designed to accommodate a compatible mix of uses that complement light industrial and limited commercial uses. 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 served by municipal water and sewer and cannot accommodate higher-density development.

(4) The Recreational Resort (RR) District is primarily designed to facilitate convention centers, sports and athletic facilities, visual and performing arts, and residential and agricultural uses. The district is generally without municipal sewer service and is not yet appropriate for higher-density development.

§ 190-2.2 Overlay districts.

A. Overlay districts shall be superimposed on other districts established by this chapter. Any land in an overlay district shall also be subject to and have the benefit of the development and use regulations for the applicable underlying district(s) and shall, in addition, conform to the additional regulations of the overlay district in which the land lies.

B. In the event of any conflict between the regulations of two or more overlay districts that apply to the same lot, or in the event of conflict between an underlying district(s) and an overlay district affecting it, the conflict shall be resolved in favor of the most restrictive regulations.

C. The following overlay districts are hereby established:

(1) Mountain Conservation Overlay (MCO) District.

(2) Floodplain Conservation Overlay (FCO) District.

(3) Shoreline Protection Overlay (SPO) District.

(4) Wetland and Watershed Protection Overlay (WWPO) District.

(5) Groundwater Protection Overlay (GWPO) District.

(6) Parkway Protection Overlay District.

§ 190-2.3 Zoning map.

The location and boundaries of the zoning districts are established as shown on a map titled "Zoning Map of the Town of Conway, New Hampshire," dated April 19, 2013, which is hereby declared to be part of this chapter and incorporated as Appendix B. Any change in the location of boundaries of a zoning district hereafter made through the amendment of this chapter shall be noted on the Zoning Map.

§ 190-2.4 Interpretation of district boundaries.

Where any uncertainty exists with respect to the boundary of any district as shown on the Zoning Map, the following rules shall apply:

A. Boundaries that appear to follow streets, railroads, or water courses shall be deemed to coincide with the applicable center line.

B. Boundaries that appear to follow a property or lot line, the exact location of which is not indicated by means of dimensions, shall coincide with the property or lot line.

C. Boundaries that appear to run parallel to the sideline of a street shall be regarded as parallel or radial to the sideline, and dimensions between the district boundary lines and the sideline of streets shall be measured perpendicular to the sideline of the street.

D. Interpretation of the zoning maps shall be the responsibility and authority of the Zoning Officer.

§ 190-2.5 Lots in multiple districts.

If an existing lot of record falls into more than one zoning district and if 60 percent or more of that lot lies within the Conway Center Village Commercial, Conway Village Commercial, North Conway Village Commercial, or Highway Commercial District, 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 that existed prior to the adoption of this chapter.

Article 3. Use Regulations

§ 190-3.1 General provisions.

No building or land shall be used except for the purposes permitted in the district as described in this Article 3 or as provided for elsewhere in this chapter.

§ 190-3.2 Table of uses.

Uses permitted in the districts identified in § 190-2.1 shall be as shown in the Tables of Uses in Appendix A. Failure to comply with the Table of Uses shall be enforceable under § 190-11.

§ 190-3.3 Uses permitted in all districts.

A. The following uses shall be permitted as of right in all use districts.

(1) Uses and structures accessory to a permitted use

(2) Agriculture and accessory buildings and structures

(3) Forestry, including associated accessory buildings

(4) Caretaker’s residence

(5) Conservation areas

(6) Domestic animals

(7) Farm and logging roads

(8) Domestic animals

(9) Farm and logging roads

§ 190-3.4 Accessory uses

A. No accessory use shall be conducted without a zoning permit from the Building Inspector.

B. Residential accessory uses.

(1) Accessory dwelling unit.

(a) One accessory dwelling unit shall be permitted by right, subject to receipt of a zoning permit, in any district that permits a single-family

dwelling. A permitted ADU shall contain a minimum of 300 square feet of gross floor area and a maximum of 1,000 square feet, except as provided in Paragraph b below.

(b) The Zoning Board of Adjustment (ZBA) 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 second ADU on a lot shall have a minimum gross floor area of 300 square feet and a maximum of 850 square feet.

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

[3] Sufficient parking is provided on-site, with a minimum of one space per accessory dwelling unit.

[4] The 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 Article 12. Long-term affordability shall be protected by an enforceable affordable housing restriction recorded with the Carroll County Registry of Deeds.

[5] The primary single-family dwelling, duplex, and accessory dwelling units, as applicable, shall be designated for non-transient residential use, and short-term transient occupancy of any dwelling unit is prohibited. The applicable occupancy restrictions shall be recorded with the Carroll County Registry of Deeds.

(2) Home occupation.

(a) A home occupation shall not occupy an area greater than 50 percent of the total floor area of the principal dwelling or 1,500 square feet, whichever is less.

(b) A home occupation shall comply with all the following requirements:

[1] The home occupation shall be carried on by persons who live in the dwelling as their principal residence. A maximum of two employees living off-premises is 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 sign for the home occupation shall not exceed the sign dimensions for the residential districts in § 190-6.1.

[7] A home occupation shall not generate excessive traffic or traffic in greater volumes than would normally be expected in a residential neighborhood.

[8] The home occupation shall not commence until the owner has obtained a change-of-use permit from the Building Inspection and Code Enforcement Department.

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

[10] A home occupation shall be conducted in a manner that is consistent with the character of the neighborhood and shall not decrease abutting property values.

(3) Farm and nursery stand. A farm and nursery stand for selling indigenous produce or plants is permitted as a temporary structure, provided that:

(a) No farm stand shall exceed 1,200 square feet of gross floor area unless granted by the Planning Board during site plan review.

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

(c) 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.

(d) All structures, parking areas, and signs shall meet the district's minimum setback requirements established in this chapter.

(4) Travel trailers and recreational vehicles.

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

(b) One travel trailer or recreational vehicle may be stored on a lot, if 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.

C. Accessory uses; nonresidential

(1) Outdoor dining establishment.

(a) An outdoor dining area is a permitted accessory use to any approved restaurant.

(b) An outdoor dining establishment application shall be accompanied by a plot plan, drawn to scale with dimensions that account for seating arrangements, and showing 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. An outdoor dining area shall comply with the requirements of the Americans with Disabilities Act (ADA).

(c) Any establishment 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 the requirements of the State Liquor Commission.

(d) The outdoor dining area must be maintained. At least 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.

(e) The outdoor dining area shall be separated from vehicular and pedestrian traffic. The separation must be adequate to ensure public safety with a barrier of at least 36 inches and a maximum of 48 inches in height. Where no curbing or adequate vehicular separation exists, concrete or similar barriers shall be installed to prevent vehicular access.

(f) 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.

(g) Occupancy limits shall be established by the Fire Chief. The application for approval must demonstrate that adequate parking can be provided under § 190-6.2 and the site plan regulations, § 110-21.

(h) Dining areas and associated equipment are subject to all applicable setbacks.

(i) Restroom facilities shall be readily accessible.

An outdoor dining application may be reviewed as a small undertaking as per site plan regulations, § 110-4. Site plan review is required for any proposal that 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.

(2) Outdoor display area.

(a) Outdoor display areas shall be screened from any abutting residential use or residential district by a wall, fence, or densely planted trees, or shrubs three feet or more in height, or be equivalently obscured by natural vegetation. Appropriate sight distances shall be maintained for pedestrian, bicycle, and vehicular safety.

(b) The total outdoor area used for merchandise display shall not exceed 10% of the indoor square footage or display area.

(c) Outdoor display of goods shall be limited to the hours of operation of the business.

(3) Heliports.

(a) A special exception may be granted to permit a private noncommercial heliport as an accessory use to any approved business use. Before a special exception for a heliport can be granted by the ZBA, all the following conditions must be met:

[1] The minimum area of a heliport site shall be five acres, and all other dimensions shall be sufficient to provide safety areas that meet all FAA-recommended dimensions and requirements.

[2] No special exception shall be granted unless the applicant submits evidence that all federal and state approvals required for the heliport have been obtained.

[3] The use of the site for a heliport shall not be offensive to the character of the neighborhood.

[4] 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 credible source that is knowledgeable of land evaluation and property values.

[5] 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.

(b) This § 190-3.5(B) shall not apply to the use of helicopters or any other type of aircraft on a temporary basis for purposes such as emergency response, medical necessity, ongoing construction projects that have been permitted by the Town, or temporary (fewer than seven days) news media coverage.

Article 4. Density and Dimensional Regulations

§ 190-4.1 General provisions.

No building or structure shall be erected, altered, enlarged, extended, or moved on any lot, nor shall any lot containing any building or structure be altered in size or dimension, unless the resulting premises comply with the minimum requirements in the Table of Lot Regulations and Table of Building Regulations, except where otherwise provided for in this chapter.

§ 190-4.2 Table of lot regulations.

All lots shall conform to the Table of Lot Regulations.

Table of Lot and Density Regulations

	Minimum Lot Area per Unit				
	Lots with water & sewer service				
District	Minimum lot area	Additional land/unit over 1	Lots with water service	All other lots	Minimum lot frontage
RA	½ acre	+ 10,000 sf	½ acre	1 acre	150 feet†
CCVR	½ acre	+ 10,000 sf	½ acre	1 acre	150 feet†
CVR	½ acre	+ 10,000 sf	½ acre	1 acre	150 feet†
NCVR	½ acre	+ 10,000 sf	½ acre	1 acre	150 feet†
CCVC*	½ acre	+ 10,000 sf	½ acre	1 acre	50 feet
CVC*	½ acre	+ 10,000 sf	½ acre	1 acre	50 feet
NCVC*	½ acre	+ 10,000 sf	½ acre	1 acre	50 feet
HC¶	½ acre‡	+ 10,000 sf	½ acre	1 acre	150 feet†,§
I1	½ acre	+ 10,000 sf	N/A	N/A	150 feet†
I2	2 acres	+ ½ acre + 10,000 sf	½ acre + ½ acre per unit over 1	N/A	150 feet†
RR	½ acre	+ 10,000 sf	½ acre	1 acre	150 feet
	*A minimum of one acre shall be required on any lot used for the keeping of farm animals. †100 feet for lots on a cul-de-sac that meet the design requirements set forth in Chapter 130, Subdivision of Land. §One hundred feet for lots which front entirely on cul-de-sacs which meet the design requirements in Chapter 130, Subdivision of Land, Article X, Detail #4, or lots qualifying as infill development. ‡ Lots serviced by a municipal water system and a municipal sewerage system which qualify as infill development shall have at least 10,000 square feet per unit. ¶ Certain provisions in the Highway Commercial District may qualify for additional density subject to a conditional use permit from the Planning Board. See § 190-9.2.				

§ 190-4.3 Table of dimensional regulations for buildings and structures.

A. All buildings and structures shall conform to the Table of Dimensional Regulations for Buildings and Structures except as provided for in § 190-4.3(B).

Table of Dimensional Regulations for Buildings and Structures					
		Maximum Height*		Setbacks	
District	Maximum Lot Coverage	Structure	Building	Minimum Front	Minimum Side/Rear
RA	N/A	55 feet	45 feet	25 feet†	15 feet
CCVR	N/A	55 feet	45 feet	25 feet	15 feet
CVR	N/A	55 feet	45 feet	25 feet	15 feet
NCVR	N/A	55 feet	45 feet	25 feet	15 feet
CCVC	N/A	40 feet	30 feet	25 feet	10 feet
CVC	N/A	40 feet	30 feet	5 feet	10 feet
NCVC	N/A	40 feet	30 feet**	5 feet	10 feet
HC	15%§	45 feet††	35 feet††	25 feet‡	10 feet
I-1	N/A	55 feet	45 feet	25 feet	10 feet§
I-2	N/A	55 feet	45 feet	50 feet	30 feet¶
RR	N/A	55 feet	45 feet	25 feet	15 feet
	* See 190-4.3(B) for maximum height exceptions. † 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. ‡ 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. § Excluding lots designated for the primary use of non-transient residential occupancy or infill development. § Where the I-1 District borders the RA District, the minimum setback shall be 25 feet for that portion of the I1 lot abutting the RA lot. ¶ Where the I2 District borders an existing residential use or an approved residential subdivision, the minimum setback shall be 50 feet for that portion of the industrial lot. ** For properties west of Route 16, building height shall not exceed 25 feet. ††For properties located in the North Conway area north of North Conway Village, structure height shall not exceed 40 feet. For properties located in the North Conway area north of North Conway Village and structures on the western side of White Mountain Highway, building height shall not exceed 30 feet.				

B. Building Height Exceptions.

(1) In the Conway Village Residential, North Conway Village Residential, Highway Commercial, and Industrial-1 and Industrial-2 districts, wind energy systems exceeding the maximum structure height shall be permitted in conformance with Chapter 179 of the Town Code.

(2) In the Residential Agricultural, Center Conway Village Residential, and

Resort Recreation Districts, the ZBA may grant a special exception to construct a wireless communication facility exceeding 55 feet in height, subject to any conditions the Board deems appropriate, provided the proposed height is necessary for the facility to function as intended.

(3) In all use districts, the ZBA may grant a special exception to allow steeples on a religious use building to exceed 55 feet, 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 steeple height is appropriate to the building's design and size.

Article 5. Nonconforming Uses, Structures, and Lots

§ 190-5.1 Nonconforming uses.

A. Any lawful nonconforming use may continue indefinitely. If abandoned for any period of time, a nonconforming use shall not be reestablished. When there is a question of abandonment, the burden of proof shall be on the property owner, not the Town.

B. 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:

(1) The expansion is accessory to the existing nonconforming use.

(2) The expansion shall be limited to the original lot of record on which the nonconforming use is located, subject to the following:

(a) 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.

(b) In no case shall the expansion render the lot proportionally less adequate, using the requirements of this chapter, Chapter 130, Subdivision of Land, or Chapter 110, Site Plan Review, for a standard, if appropriate.

(c) The property owner shall be responsible for providing documentation defining the original lot of record.

(3) A lawful nonconforming use may be changed to a different nonconforming use if granted a special exception. The ZBA 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 B(2).

(b) The proposed use shall have the same or a lesser impact on the neighborhood relative to the following:

[1] Public health, safety, or welfare.

[2] Impact on property values of adjacent properties.

[3] Traffic.

[4] Nuisance to neighbors.

[5] Noise.

[6] Nighttime lighting.

§ 190-5.2 Nonconforming structures.

A. 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:

(1) The nonconforming structure is not in the Floodplain Conservation Overlay District.

(2) Sanitary septic disposal and water supply are provided if it is a primary structure.

(3) The expansion shall be in a direction away from that which the setback is intended to protect or buffer.

B. 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:

(1) 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.

(2) If an upward expansion, it shall not have any adverse impact on any neighboring properties, including but not limited to blocking sunlight or views.

(3) If an upward expansion, it shall not exceed the maximum height limitation required by this chapter.

(4) If an enclosure of a space within the existing two-dimensional footprint, it shall be permitted except in the Floodplain Conservation Overlay District.

(5) No part of the nonconforming structure is in the Floodplain Conservation Overlay District.

(6) The expanded nonconforming structure shall not create a greater impact on traffic, parking, noise, or nighttime lighting.

§ 190-5.3 Nonconforming signs.

A. Signs lawfully in existence before the adoption of regulations that made them nonconforming shall be permitted to continue in existence and be maintained.

B. No change in type, size of message area or support structure, height, location, message, illumination, number, or material shall be permitted without approval under § 190-6.1.

C. Nonconforming aspects of the sign may continue, but no additional types of nonconformity shall be created by any change.

D. Permitted changes may allow a reduction in any one or more nonconforming aspects but shall not allow any nonconforming aspect of the sign to become increasingly nonconforming.

E. If a nonconforming sign is abandoned, the vested rights shall terminate, and any replacement shall comply with the requirements of this chapter.

§ 190-5.4 Nonconforming lots.

A. 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 a common ownership 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 677.

B. No action shall be permitted to change the boundary of the lot unless it brings the lot closer to conformance with this chapter and makes no other aspect of the lot or all structures on the lot more nonconforming.

C. New structures are permitted on nonconforming lots only if the following conditions are met:

(1) Sanitary water supply and sewage disposal are provided for any primary structure; and

(2) The proposed structure meets all setback requirements.

§ 190-5.5 Nonconformities within overlay districts.

A. In the Shoreline Protection District, preexisting lots with insufficient acreage may be permitted to be built upon if granted a special exception. The ZBA may grant a special exception only if the following conditions are met:

(1) There is a state-approved subsurface sewage system or connection to a municipal sewer.

(2) Any building to be erected shall be configured and located on the lot to achieve the maximum practical shoreline setback. If appropriate, any non-shore setback may be reduced by up to 50% to facilitate maximum shoreline protection.

(3) Clearing of lots may be limited by the ZBA as a condition of approval to prevent erosion and runoff into the Great Pond.

B. Floodplain Overlay District

(1) There shall be no expansion of present nonconforming buildings or pre-existing septic systems in the floodplain, provided that maintenance, repair, or correction of pre-existing septic systems that malfunction shall be permitted.

(2) There shall be no allowance of a new septic system in the floodplain.

(3) Existing nonconforming buildings that 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. Buildings not rebuilt to these standards shall be removed completely.

Article 6. General Regulations

§ 190-6.1 Signs

A. Sign content.

(1) The Town has no intention of restricting individual free speech, but it does recognize its right to place reasonable restrictions on commercial speech.

(2) Further, the Town wishes to prevent excessive or unnecessary signage along road corridors.

(3) Accordingly, off-site commercial signs shall be prohibited.

B. Permit required for all other signs.

(1) 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 adhere to the following process:

(a) An application form for each sign shall be completed and signed by the property owner.

(b) A complete application shall also include the following:

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

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

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

[4] Analysis of the impact on safety, specifically addressing lighting or glare and line-of-sight blockage for vehicles and pedestrians.

(c) Upon receipt of a complete application, the Zoning Officer shall approve or deny the application within 14 days.

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

(e) 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.

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

(1) 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.

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

D. Temporary event signage. In addition to signage otherwise permitted in § 190-6.1, temporary events may display up to 20 square feet of additional signage and that signage may be in the form of banners. The signage shall comply with the following dimensional restrictions:

(1) 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;

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

(3) Maximum sign width shall be 10 feet.

E. 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. The signage shall comply with the following dimensional restrictions:

(1) 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;

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

(3) Maximum sign width shall be 10 feet.

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

(1) Illumination.

(a) 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.

(b) Lighting shall be located, directed or shielded such that it only sheds light downward and is limited to the message display area.

(c) Lighting sources shall be white-light sources and, whenever possible, energy-efficient fixtures.

(d) Fixtures shall be located, directed 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.

(2) Neon. Neon lighting shall be prohibited.

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

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

(5) Structural supports and base.

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

(b) If the sign structural supports and base are made of wood, brick 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.

(c) The top of the supporting structure of a freestanding sign shall extend no farther above the top of the message area than one-third of the maximum permitted height of the message area.

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

(7) 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.

G. Movable signs. Movable signs are prohibited. No vehicle, including parts thereof, trailers, or other accessories, shall be used as a means of circumventing the purpose and intent of this chapter. A vehicle displaying a commercial message that 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.

H. Flags, banners, pennants, etc.

1. In addition to signs otherwise permitted by this chapter, up to three flags may be placed on any lot, displaying any legal symbol, message or information, commercial or noncommercial, excluding off-site commercial flags.

   (a) No flag shall exceed 24 square feet measured by one face of the flag only. Any flag shall be mounted directly to one flagpole, i.e., a pole intended and placed solely for the support and display of a flag or flags. Utility poles, light poles, trees, or other sign structures shall not be used as a flagpole.

   (b) All flagpoles shall be erected vertically or within 45° of the vertical.

   (c) 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.

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

3. This Subsection H 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 shall not increase the message area of any permitted sign or signs.

I. 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.

J. Residential and resort districts

(1) Dimensional Regulations

	RA	CCVR	CVR	NCVR	RR
Setbacks					
ROW	5’	5’	5’	5’	5’
All other boundaries	15’	15’	15’	15’	15’
Area	12’	12’	12’	12’	12’
Height	8’	8’	8’	8’	8’

(2) General Regulations. 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 that measures no more than 48 inches in height and four inches in width.

K. Commercial and industrial districts

(1) Dimensional Regulations

	CCVC	CVC	NCVC	HC	I1	I2
Freestanding Signs						
Message area	40 sq. ft.	40 sq. ft.	40 sq. ft.	40 sq. ft.	40 sq. ft.	40 sq. ft.
Height of message area from undisturbed ground	15’	15’	15’	15’	15’	15’
Width of message area	12’	12’	12’	12’	12’	12’
Setback – ROW[(i)]	25’	25’	25’	25’/100’[(ii)\]	25’	25’
Setback – Other boundaries	5’	5’	5’	5’	5’	5’
Projecting Signs[(iii)]					Not permitted	Not permitted
Message area	6 sq. ft.	6 sq. ft.	6 sq. ft.	20 sq. ft.		
Height above ground	10’	10’	10’	10’		
Top of sign maximum height	15’	15’	15’	15’		

(i) 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.

(ii) 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.

(iii) Permitted in lieu of a freestanding sign.

(2) General Regulations.

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

[1] 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."

[2] Directional signs with a message area of four square feet or less, to

indicate entrance or exit driveways.

[3] Business name and directional signs with a message area of three square feet or less which are located over doorways. The signs may project from the wall surface.

[4] 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.

[5] 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.

[6] 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.

[7] Special promotional signs for special events as approved by the Board of Selectmen with a message area of 40 square feet or less.

[8] 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.

[9] A home occupation may display a non-illuminated outdoor sign not exceeding three square feet in size.

(3) 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.

(c) 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.

(d) The Zoning Officer may approve the following:

[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 under Subsection K(4)(f)[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 K(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.

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

(4) Wall sign.

(a) For lots without multiple commercial tenants, each lot shall be permitted one wall sign.

(b) For lots with multiple commercial tenants, each commercial tenant shall

be permitted one wall sign.

(c) All wall signs shall be located on a wall that is common to both the interior and exterior of the business identified by the sign.

(d) 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.

(e) The message area of the wall sign shall be based on the following formulas.

[1] 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).

[2] 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.

(f) The Zoning Officer may approve the following:

[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 under Subsection K(2)(f)[1] is not used.

L. Sign incentives

(1) The purpose of these sign incentives is to reduce visual clutter and distractions from signs in the natural environment. The incentives offers design and size bonuses as a means of encouraging certain site and sign designs.

(a) Any freestanding, projecting, or wall sign that 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) Freestanding sign incentives.

[1] 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 the increases cause any sign message area to exceed 80 square feet.

[2] The applicant shall submit a satisfactory written declaration, to be recorded with 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 the agreement must be legally enforceable by the Town.

(c) On a site where the freestanding sign conforms to all provisions of this chapter, the maximum wall sign message area permitted per Subsection J(4) may be increased by 50%.

(2) 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.

§ 190-6.2 On-site parking.

A. Applicability.

(1) On-site parking spaces shall be provided for any change of use, new use, or expansion of an existing use. In no case shall on-street parking be credited for any site because its availability is subject to change over time based on the public need to use the right-of-way for other, possibly conflicting, uses.

(2) Except for residential uses, no on-site parking is required in the Village Commercial Districts.

B. Minimum Parking Requirements.

(1) The minimum number of on-site vehicle parking spaces to be provided for each principal use located on a lot is listed in Table 6-2.1. The Planning Board may waive any of the requirements of this section if it determines that a reduced number of parking spaces will be sufficient to meet the needs of the proposed use.

Table 6.2.1. Minimum On-Site Parking Requirements

Use	Minimum Required Parking Spaces
Church, school, theater	1 per 3 seats
Lounge	1 per 2 seats
Restaurant	1 per 3 seats
Hospital, nursing/convalescent home	1 per 1.5 beds
Wholesale, light industry	1 per 500 sq. ft.
Hotel, motel, lodging house	1 per guest room plus 1 per 350 sq. ft. for office and amenity space
Private club or lodge	1 per 4 members
Professional or business office, excluding medical or dental office	1 per 350 sq. ft. for first-floor office 1 per 300 sq. ft. for upper-story office
Medical, dental office	1 space per 200 sq. ft.
Dwelling, single- or two-family	2 per unit
Dwelling, multifamily or manufactured housing	1.5 per unit
Retail	3.3 per 1,000 sq. ft. for the first 10,000 sq. ft. 2.5 per 1,000 sq. ft. for 10,001-12,500 sq. ft.; 2.0 per 1,000 sq. ft. over 12,500 sq. ft
Personal service establishment	1 per 300 square feet of gross area

(2) In determining the minimum required number of parking spaces, fractional spaces shall be rounded to the nearest whole number, with one-half or greater counted as an additional space.

(3) Space(s) designated for off-street loading may not be used to satisfy

requirements for any on-site parking space or access aisle or portion thereof.

(4) Spaces reserved for accessible parking, carshare facilities, or electric vehicle charging may count toward the minimum parking requirements.

(5) Where multiple primary uses occupy the same structure or lot, the minimum required on-site parking shall be the sum of the requirements for each use computed separately.

(6) For any use not listed in Table 6.2.1, the Building Commissioner shall determine the minimum on-site parking requirements by considering all factors entering into the parking demand for the use, including the most current version of the ITE Parking Generation Manual. The determination shall be documented in writing and kept on file with the Planning Department.

(7) The provision of on-site accessible parking shall comply with the State Building Code.

C. Administrative Reduction. The Town Planner may grant up to a 15% reduction in the number of required on-site parking spaces when the following conditions are met.

(1) A specific use or site has characteristics that make the required number of parking spaces overly restrictive.

(2) The requested reduction will not cause long-term parking problems for adjacent properties or anticipated future uses.

(3) An area of land suitable for the development of a parking facility and equal in size to the area of land needed to provide the parking spaces for which a reduction is granted will be reserved as undeveloped open space on the lot.

D. Conditional Use Permit.

(1) The Planning Board may grant a conditional use permit for reductions in residential parking that exceed 15%, up to a maximum of 25%.

(2) In determining whether to grant a conditional use permit, the Planning Board shall make the following findings.

(a) The specific use or site has characteristics that make the number of required parking spaces is too restrictive.

(b) The requested reduction will not cause long-term parking problems for adjacent properties or anticipated future uses.

(3) The applicant for a conditional use permit shall submit a parking study, prepared by a civil engineer licensed by the State of New Hampshire, that clearly demonstrates the need for a reduction in the required parking. The parking study shall address the following.

(a) A description of the proposed use(s).

(b) Days and hours of operation of the use(s).

(c) The anticipated rate of turnover for proposed spaces.

(d) The anticipated peak parking and traffic loads for each of the uses on the site.

(e) Total vehicle movements for the parking facility as a whole.

E. Site Plan Review. All on-site parking shall comply with the Design Standards in Chapter 110, Site Plan Review.

Article 7. Special Regulations

§ 190-7.1 Commercial and industrial uses.

A. Business development parks.

A special exception for a business development park shall be subject to all of the following conditions.

(1) A portion of the boundary of the proposed property shall be within or contiguous with the boundary of a Village Commercial District or the Highway Commercial District.

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

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

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

(5) 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 those of a residential neighborhood.

(6) The applicant shall provide a comprehensive report by an appraiser licensed by the State of New Hampshire demonstrating that there will be no negative impact on abutting properties. The report shall be reviewed and comments will be provided by the Town Assessor.

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

(8) 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.

(9) The business development park will construct a passive and active recreation trail system within the project for use by tenants 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.

(10) Green space shall comprise not less than 35% of the total lot area, exclusive of wetlands, water bodies, the 100-year floodplain, and slopes over 25%.

B. Outdoor commercial activities.

(1) When operated in close proximity to residential uses, outdoor commercial activities such as drive-up windows, remote outdoor speaker systems, interactive signs, menu boards, or other similar devices with speakers constitute a nuisance due to unconfined noise and light, and operating hours that are not compatible with the residential environment. Accordingly, a special exception for outdoor commercial activities shall be subject to the conditions in Paragraph (2) below.

(2) Minimum buffer.

(a) A minimum of 300 feet from the closer of the residential zone boundary or from the nearest residential property line unless the time of operation begins before 9:00 a.m. or ends after 5:00 p.m., in which case the minimum separation shall be at least 600 feet. Substantial effective buffering against sound and light shall be provided in either case.

(b) During site plan review, the Planning Board may waive the minimum separation requirement 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.

C. Commercial amusements.

(1) All commercial amusements on a lot shall be located within an enclosed building.

(2) 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.

(3) Commercial amusements may occupy more than 10% of the floor space of a business in any business district, provided 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.

§ 190-7.2 Personal and business services.

A. Post offices.

(1) A special exception for a public or privately operated post office shall be subject to all of the following requirements.

(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.

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

B. Kennels.

(1) A special exception to allow kennels for the transient boarding of domestic animals or commercial breeding facilities for domestic animals shall be subject to all of the following requirements.

(a) The minimum lot size shall be two acres.

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

(c) The applicant shall provide a written plan for the disposal or removal of animal waste with the application requesting the special exception. The plan must be approved by the ZBA as a condition of the special exception, if granted.

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

(e) The values of surrounding properties are not diminished.

(f) There will be no nuisance preventing abutters or neighbors from the peaceful enjoyment of their property and home.

(2) The ZBA may impose additional conditions to protect the health, safety, and general welfare of the Town's residents.

(3) At no time shall noise from a kennel operation exceed 70 decibels when measured at a property line. Sound barriers or additional setback areas may be required to limit sound impacts on abutting properties. At any time, the Town may demand, at the owner’s expense, that noise levels be verified by a qualified engineer with a valid license from the State of New Hampshire.

§ 190-7.3 Institutional uses.

A. Private educational facilities.

A special exception for a private educational facility or any associated accessory use on the premises shall be subject to all of the following conditions.

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

(2) The development shall be architecturally compatible with the height, scale, color, and detail of the surrounding residential neighborhood.

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

B. Child care center.

(1) A state-licensed childcare center shall be permitted by right in any commercial district.

(2) A childcare center in an existing structure shall be exempt from the district’s setbacks, height, and frontage requirements if the existing floor area, height, and setbacks do not change.

(3) The development shall be architecturally compatible with the height and scale of the surrounding residential neighborhood.

(4) Site plan approval or a site plan exemption has been granted by the

Planning Board.

(5) The lot size is appropriate for providing green space and play areas.

C. Nursing homes

A special exception for a nursing home shall be subject to all of the following conditions:

(1) The nursing home development is architecturally compatible with the surrounding neighborhood.

(2) Traffic access to and from the development will not alter the neighborhood's character.

(3) Exterior lighting shall be designed so as not to disturb the tranquility of the neighborhood.

(4) Outpatient and day-care facilities operate during reasonable hours.

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

(6) Accessory commercial space on premises, such as gift shops, flower shops, or candy shops, shall be open only to residents of the facility and their guests. There shall be no accessory commercial space leased to outside businesses.

(7) The maximum height of the nursing home structure shall be two stories above finished grade.

(8) The maximum density allowed shall be 16 beds per acre.

(9) The proposed site for the nursing home shall contain at least five acres.

§ 190-7.4 Recreation and resort uses.

A. Resort hotel.

A special exception for a resort hotel or any associated accessory uses shall be subject to all of the following conditions.

(1) The resort hotel shall be constructed on and in conjunction with a commercial golf facility or with another recreational/resort use on the supporting acreage.

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

(3) 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;

(4) In addition to the buffer area required for s commercial golf course, 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

(5) The number of guest rooms in the resort hotel will depend on the acreage allocated to the combined facility or resort hotel lot, at a ratio of 2 acres per guest room.

B. Commercial golf facilities.

A special exception for a traditionally sized (150-200 acres) commercial golf facility shall be subject to the following requirements.

(1) The site shall be an appropriate location for use, not only in context with the land to be dedicated to it but also with the surrounding land uses, as determined by the ZBA. The Board shall consider the following criteria to determine the appropriateness of the site.

(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.

[1] No traffic hazard will be created, and traffic access will not alter the character of the neighborhood.

[2] The main access point shall be from an arterial or collector road, not from neighborhood streets.

[3] A traffic study shall be completed that shows the impact of the proposed development in its entirety on the nearest signalized intersection(s). The ZBA shall consider the Town Planner’s review of the traffic study.

[A] 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 all changes necessary to bring the intersection to LOS C, provided that the improvements are acceptable to the ZBA. The applicant may choose to reduce the development so as to produce an acceptable LOS.

[B] 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.

(c) Nuisance/hazards. Following its review of the proposed use, operation, and location, if the ZBA determines that any nuisances, such as noise or odors, or any hazards cannot be overcome and are not customarily found in a residential neighborhood, the proposed use shall be denied.

(d) Adequacy of private or municipal facilities. The proposed facilities, including drainage, sewer or septic, water, electric, and other utilities, shall be adequate to meet the needs of the proposed development. The Town Engineer’s opinion shall be considered in making the determination.

(e) Design and architecture. The design and architecture of the proposed structure shall be similar to or aesthetically compatible with abutting residential structures in terms of scale, height, color, and detail.

(f) Lighting. The lighting plan submitted with the special exception request shall demonstrate that no direct glare or light spillover onto adjoining properties will be emitted from exterior lighting on the premises. Parking areas and walkways may be illuminated by hooded or shielded luminaires that do not extend significantly beyond the parking and walkway areas.

(g) Hours of operation. Hours of operation will be appropriate to avoid interfering with the abutting residential neighborhood through excess traffic during off-peak hours, unscreened lighting that disturbs residential uses, and other factors that distinguish the facility from a residential neighborhood.

(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 at least 100 feet in depth, unless the ZBA requires a greater buffer due to the intensity of the use and its interference with adjacent properties.

(2) Accessory uses may include a clubhouse with a lounge and restaurant, a professional shop, a golf practice range, other recreation amenities such as tennis courts and swimming pools. A miniature golf facility is prohibited.

(3) Site plan approval shall also be required by the Planning Board.

§ 190-7.5 Public service uses.

A. Wireless communication facilities.

A special exception to allow wireless communication facilities shall be subject to all of the following conditions.

(1) 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 the proposed facilities as projects having regional impact.

(2) Maximum tower height shall be in accordance with § 190-4.3(B).

(3) 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 a demonstration of a realistic analysis of multiple sites, the need for the proposed height, and any impact on significant roadside viewpoints.

(4) Any wireless communication facility shall be designed to accommodate multiple providers of communication services and will be approved only on 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.

(5) The ZBA may request detailed plans from the applicant and may, at the applicant's expense, engage the services of professional consultants to review and comment on the proposal and on the testimony of the applicant or their agents relating thereto.

(6) Major site plan approval must be obtained from the Planning Board.

B. Commercial solar.

A special exception for a commercial solar or large commercial solar collection system shall be subject to all of the following requirements:

(1) Elevation. 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.

(2) 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.

(3) Buffer.

(a) A perimeter buffer area adjacent to all abutting properties and roads shall be:

[1] Left in its undisturbed natural state if it provides a year-round visual barrier from abutting properties and roads, or

[2] Replanted with a mix of indigenous coniferous and deciduous species to create a year-round visual barrier from abutting properties and roads.

(b) 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.

(4) Land clearing. Land clearing shall be limited to what is necessary for the installation and operation of the system and to ensure sufficient all-season access to the solar resource, given the land’s topography. Following construction, cleared land areas must be restored with native species consistent with the site's use as a solar collection system (e.g., slow-growing or low-growing species). Erosion control measures during construction shall be detailed as required.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) Existing utility infrastructure.

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

(b) Upgraded infrastructure required to increase 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.

§ 190-7.6 Sexually oriented businesses.

A. Purpose and intent.

(1) The purposes of § 190-7.6 are to:

(a) Establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the Town;

(b) Promote the health, safety and general welfare of the citizens of the Town; and

(c) Impose and enforce regulations to prevent problems of blight and deterioration that accompany and are brought about by the concentration of sexually oriented businesses.

(2) It is neither the purpose nor the effect of § 190-7.6 to:

(a) Impose limitations or restrictions on the context of any communicative materials, including sexually oriented materials; or

(b) 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;

(3) Neither is it the intent nor the effect of § 190-6.7 to condone or legitimize the distribution of obscene material.

B. A special exception for a sexually oriented business shall be subject to all of the following conditions.

(1) Sexually oriented businesses shall only be permitted in the business districts.

(2) 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.

C. 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.

D. Site plan approval from the Planning Board shall be a prerequisite for establishing 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 571-B.

E. Violation of the provisions of § 190-7.6 is declared to be a public nuisance, which shall be abated by the Town by way of civil abatement procedures.

F. Nothing in § 190-7.6 is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates any Town 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.

Article 8. Special Residential Regulations

§ 190-8.1 Multifamily housing.

A. Multifamily Conversions. In order to preserve and safeguard Conway's older homes but also allow for their conversion to multifamily dwellings, the ZBA may grant special exceptions for residential structures and accessory structures on the same lot, provided that:

(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 ZBA at the time of application to ensure compliance with the requirements for this special exception.

§ 190-8.2 Travel trailers and recreational vehicles.

A. 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.

B. 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.

§ 190-8.3 Manufactured housing park.

In the North Conway Village Residential District and Conway Village Commercial District, a manufactured home park is permitted subject to the following requirements.

(1) A manufactured housing park shall contain a minimum of 10 acres and shall have a minimum frontage of 60 feet on or a 60-foot right-of-way to a public street.

(2) There shall be at least 10 manufactured housing spaces available at first occupancy.

(3) A minimum of 10,000 square feet shall be provided for each manufactured housing space.

(4) Each manufactured house shall be provided with suitable stability to bear the weight of the house at all times of the year and have adequate gradient or crown to provide for proper surface drainage.

(5) All State of New Hampshire requirements for manufactured housing 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. The systems shall be approved by the Board of Selectmen or their designated agent and be maintained so as not to cause a health or sanitation hazard.

§ 190-8.4 Inclusionary zoning

A. Purpose and intent.

This § 190-8.4 encourages attainable housing that meets the needs of the Town of Conway; promotes economic and social stability; expands opportunities for home ownership and non-transient rental housing; preserves long-term affordability through restrictive covenants and other legal mechanisms; and supports the Town's compliance with New Hampshire RSA 674.

B. Applicability. § 190-8.4 shall apply to the following districts:

(1) Residential/Agricultural District;

(2) Conway Village Residential District;

(3) North Conway Village Residential District;

(4) Center Conway Village Commercial District;

(5) Conway Village Commercial District;

(6) North Conway Village Commercial District; and

(7) Highway Commercial District.

C. Inclusionary housing development.

(1) In order to encourage the development of non-transient affordable housing and enhance housing choices in all Zoning Districts, the ZBA may grant a special exception for an Inclusionary Housing Development, provided that:

(a) Notwithstanding the minimum lot size and frontage standards set forth in the underlying zoning districts defined within this chapter, density requirements and frontage standards for units within an Inclusionary Housing Development shall be as follows:

[1] Within the Residential Agricultural District, lots serviced by municipal water and sewerage systems are permitted up to six dwelling units per acre;

[2] Within the Village Residential Districts, lots serviced by municipal water and sewerage systems are permitted up to eight units per acre;

[3] Within the Commercial Districts, lots serviced by municipal water and sewerage systems are permitted 18 dwelling units per acres;

(2) Unless specified within § 190-8.4, Inclusionary Housing Developments shall comply with Chapter 110, Site Plan, and Chapter 130, Subdivision.

(3) In Commercial Districts, building height may be increased by 12 feet above the requirements of the underlying district. Any increase in height shall not impact significant viewsheds or create undesirable visual impacts. The Planning Board may require buildings exceeding 35 feet to be stepped-back to reducing massing, impose increased setbacks to align structure scaling with adjacent development, or require other limitations to protect from visual impacts. Design drawings including perspectives from the street and demonstrating the impact to viewsheds should be presented.

(4) All residential units within an Inclusionary Housing Development shall have a minimum occupiable floor area of 450 square feet.

(5) Inclusionary Housing Developments shall contain a minimum of 20% affordable units rented to an eligible renter or 15% units sold to an eligible buyer as defined in Article 12. All units must be restricted for non-transient

residential use.

(6) Units must be restricted for the required non-transient use and affordable occupancy for a period of 30 years from the date of certificate of occupancy issuance. The applicable restriction shall be recorded in the Registry of Deeds as evidence of the same.

(7) Integrated land development. Inclusionary Housing Development may pursue an integrated land use permit as defined in RSA 489 with prior authorization of the Town Engineer;

D. Cluster housing. In order to encourage the developments of non-transient residences and enhance housing choices in all districts, the Planning Board may grant a conditional use permit for compact cluster housing developments, provided that:

(1) The predevelopment parcel shall have minimum lot size of three contiguous acres;

(2) All units shall be serviced by municipal water and sewerage systems and require a minimum of 5,000 square feet of developable area per unit, not including open space. Unit counts shall not exceed the density of the underlying district or as defined within this § 190-8.3 shall not be exceeded.

(3) Cluster Housing Development are permitted as Planned Residential Development or traditional subdivisions. Newly created parcels require a minimum frontage of 50 feet, side and rear setbacks of 10 feet, and front setbacks of 15 feet.

(a) The predevelopment parcel must comply with frontage requirements within the underlying District unless the proposal contains a right-of-way and road constructed to Town standards as defined in Chapter 130, Subdivision;

(b) Structure separation may be determined by Fire Code when a Cluster Housing Development is proposed as a Planned Residential Development. Structure separations must be approved by the Fire Chief.

(4) A minimum of 30% of contiguous developable land within the predevelopment parcel shall be dedicated for open space. Accommodations must be made for accessible and usable open space to residents or the general public and may include trails, park areas, or community pavilions. Land dedicated to open space shall be shown on the plan and preserved through a recorded easement solely for conservation or public recreation.

Open space requirements shall be met by reserving a contiguous area including no more than 10% of the vegetated buffer area.

(5) A minimum of 10% of the required open space shall preserve existing vegetation. Existing vegetation requirements may be waived by the Planning Board when existing lot conditions prevent compliance;

(6) All dwelling units shall be in single-family detached structures or duplexes;

(7) All dwelling units shall have a floor area of not less than 400 square feet nor greater than 1,200 square feet;

(8) All dwelling units shall be used for non-transient occupancy, and, short-term transient occupancy of any dwelling unit is prohibited. Legal restrictive covenants as part of the property deed indicating non-transient occupancy restrictions shall be reviewed and approved by the Planning Board as part of the project review. Any units that the owner elects to rent will be leased with terms of no less than 180 days;

(9) Scale and style of all structures within a Cluster Housing Development shall generally relate in scale and design features to the surrounding neighborhoods, showing respect for the local context;

(10) Parking may be provided within a shared parking area. A minimum of one parking space is required per dwelling unit;

(11) Integrated land development. Cluster Housing Developments may pursue an integrated land use permit as defined in RSA 489 with prior authorization of the Town Engineer;

(12) The conditional use permit shall not be combined with any other conditional use permit or special exception, including but not limited to the special exceptions for accessory dwelling units;

(13) All units within a Cluster Housing Development must be restricted for the required non-transient occupancy for a period of 30 years from the date of Final Planning Board approval. The applicable restriction shall be recorded in the Registry of Deeds as evidence of the same.

E. Planned residential development.

(1) Planned Residential Development (PRD) standards are required when multiple principal residential structures exist on a single parcel of land. A PRD may be clustered or grouped on site with dimensions, frontages, and setbacks reduced from conventional lot sizes. When multiple residential

primary structures are located on a parcel, each structure that contains dwelling unit(s) requires a unit-subdivision with the exception of accessory dwelling units, or multi-family and mixed-use developments when all structures, units, and land are within the same ownership.

(2) Planned Residential Developments are considered unit-subdivisions. All applicable Chapter 110, Site Plan and Chapter 130, Subdivision shall apply. In addition, unit-subdivision applications must include:

(a) Internal dimensional requirements. Structures shall be at least 25 feet apart and shall be a minimum of 15 feet from property lines.

(b) A private non-profit corporation, association or other non-profit legal entity established by the developer to manage and support the activities of the PRD. The entity shall own all private roadways, common land, and be responsible for maintenance and payment of taxes on same.

(3) Any required covenants or cooperative agreements or similar forms shall be reviewed by Town Counsel to ensure legal form and enforceability prior to recording at the Carroll County Registry of Deeds and final Planning Board approval. The cost of this review shall be paid by the applicant.

(4) Open Space, Common Land, common facilities and other features within a PRD shall be protected by covenants running with the land. The covenants shall be enforceable by the associated legal entity or the Town of Conway.

(5) Prior to approval of a PRD application, the property owner must demonstrate compliance with RSA 356-B, Condominium Act and RSA 356-C, Protection of Tenants in Conversion of Rental Units.

(a) If the establishment of a condominium association is required by State Statute, all required documents must be reviewed and approved by the Town prior to recording.

(b) Subsequent to recording any required condominium association documents at the Carroll County Registry of Deeds, copies of all recorded documents must be submitted to the Town within 90 days.

(6) As approved units within a PRD are constructed, as-built plans are required. The Planning Board may approve a phased development and required as-builts at the completion of each phase.

(7) As per § 110-20, Driveways and vehicular access; the Planned Residential Development shall have no more than one driveway onto each road on which it fronts, except that a pair of one-way driveways (a single entrance

and single exit) which are adequately designed, signed and marked as being one-way may be substituted for a single two-way driveway. The Fire Chief may require a second means of egress based on unit counts and life-safety considerations.

(8) Driveways constructed to a length in excess of 200 feet must meet standards set by Chapter 130, Article X, Road Standards. When all units within the PRD are restricted as primary residential units, a maximum driveway length of 800 feet may be permitted at the discretion of the Town Engineer and Fire Chief. Driveways shall be constructed to a standard which supports emergency vehicles and provides year-round access.

(a) Driveway width for two-way traffic shall be a minimum of 18 feet and a maximum of 24 feet. One-way traffic shall require a minimum of 14 feet and a maximum of 20 feet.

(b) Driveways greater than 200 feet in length shall have construction details defined as part of a subdivision application. Maintenance schedules and responsibilities for the driveway must be defined in the recorded condominium documents.

F. Inclusionary housing plan requirements.

(1) All affordable and non-transient units shall be dispersed throughout the project by being fully integrated with the market-rate units, ensuring they are distributed rather than clustered in one area.

(2) All affordable and non-transient units shall be constructed concurrently with the market-rate units. Progress rates for the construction of affordable units shall be the same as those of the market-rate units.

(3) Affordable and non-transient units shall be constructed with complementary exterior design and materials that are comparable with those used in constructing the market-rate units. Similar landscaping shall be applied to both affordable units and the market-rate units. Affordable units as well as market units may be pre-site-built units as defined in RSA 674:31-a.

(4) Interior materials and amenities in the affordable units may differ from those in the market-rate units, provided that the number of bedrooms is proportional between the affordable and market-rate units.

(5) When units are calculated to a fractional number, any fraction of less than 1/2 shall be rounded down to the next whole number; any fraction of 1/2 or greater shall be rounded up to the next whole number and treated as a whole inclusionary unit. For example, a three-unit development would be

calculated as 3 x 25% = 0.75, which would be rounded up to one affordable unit.

G. Future transactions and ordinance enforcement.

(1) Inclusionary units offered for sale or rent and approved pursuant to § 190-8.3 shall require a restrictive covenant enforceable by or on behalf of the Town in a form approved by the Town and shall be recorded with the Carroll County Registry of Deeds prior to the sale or rental of any affordable or non-transient units.

(a) The limitations on the sale of affordable units as described in this Subsection G and the restrictive covenant shall not apply to a foreclosure by an institutional lender or a deed-in-lieu of foreclosure resulting from a mortgage with an institutional lender and upon foreclosure by an institutional lender or a deed-in-lieu of foreclosure resulting from a mortgage with an institutional lender, the income qualifications and resale limitations set forth herein shall terminate with respect to the impacted unit.

(b) Affordable units for rent shall limit annual rent increases to the percentage increase in the area median income.

(2) No sale of an affordable unit shall be permitted unless and until the Administrator has provided written approval that the sale complies with this chapter and the restrictive covenant. Any sale of an affordable unit that fails to comply with this chapter and the restrictive covenant shall be deemed null and void. To ensure that only eligible households purchase affordable units, at least 30 days prior to the purchase of an affordable unit, the following information shall be provided to the Administrator for review and approval:

(a) A copy of the fully executed purchase and sale agreement;

(b) A certification from a certified public accountant in a form reasonably acceptable to the Town and signed under the pains and penalties of perjury, confirming the annual income of the prospective purchaser;

(c) Certification from the eligible buyer that it will be occupying the affordable unit as its primary residence, and it has no other interest in any other real estate;

(d) A copy of the most recently published report by the New Hampshire housing Finance Authority, evidencing the estimated maximum affordable purchase price for housing units in Carroll County; and

(e) The most recently published by the United States Department of Housing and Urban Development report evidencing the area median income for a family of four in Carroll County. The Administrator shall review the purchase and sales agreement, the certifications and the reports to determine compliance with this chapter.

(3) No rental of an affordable unit shall be permitted unless and until the Administrator has provided written approval that the rental of the affordable unit complies with Subsection G and the restrictive covenant. Any rental of an affordable unit that fails to comply with this chapter and the restrictive covenant shall be deemed null and void. To ensure that only eligible households rent affordable units, at least 15 days prior to the rental of an affordable unit, the following information shall be provided to the Administrator for review and approval:

(a) Fully executed copy of the lease;

(b) A certification from a certified public accountant in a form reasonably acceptable to the Town and signed under the pains and penalties of perjury, confirming the annual income of the prospective tenant;

(c) A copy of the most recently published report by the New Hampshire Housing Finance Authority, evidencing the maximum affordable monthly rent for rental units in Carroll County;

(d) A certification from the eligible renter that it will be occupying the affordable unit as its primary residence, and it has no other interest in any other real estate; and

(e) The most recently published by the United States Department of Housing and Urban Development report evidencing the area median income for a family of three in Carroll County. The Administrator shall review the lease, the certification and the reports to determine compliance with this chapter.

Article 9. Special Regulations in the Highway Commercial District

§ 190-9.1 General provisions.

A. Conditional use permits (CUP) may be granted by the Planning Board to allow increases to structural lot coverage and unit density standards. To obtain approval of a CUP, the applicant is required to meet specific conditions and demonstrate that proposals maintain the character, scope, and scale of neighboring properties.

B. Prior to submission of a formal Planning Board application, any proposal requesting a CUP shall be subject to design review. A formal application will not be considered complete without preliminary review.

§ 190-9.2 Table of lot coverage and density standards for conditional use permits

In the Highway Commercial District, the Planning Board may grant a conditional use permit for any of the project types listed in the Table of Lot Coverage and Density Standards, provided the requirements of this chapter are met.

Section Reference	Project Type	Maximum Density by Conditional Use Permit	Additional Lot Coverage Incentive by Conditional Use Permit
§ 190-9-3	Adaptive Reuse, 10,000 sf or less	Exempt from §190-4.2	
	Adaptive Reuse, >10,000 sf	18 units/acre	
§ 190-9-4	Multiple dwelling units	14 units/acre	
§ 190-9-5(B)	Mixed-use development		2.5% per unit
§ 190-9-5(C)	Traffic directed to signalized or adequately controlled intersections		10%
§ 190-9-5(D)	Shared parking		5%
§ 190-9-5(E)	Pedestrian-focused infrastructure		10%
§ 190-9-5(F)	Stormwater standards		5%
§ 190-9-5(G)	Nonconformities brought into compliance		10%

§ 190-9.3 Adaptive reuse.

Adaptive reuse projects are intended to revitalize existing structures that will include restricted non-transient residential units in all or any portion of an eligible structure.

A. Adaptive reuse eligible structures. The provisions of this conditional use permit shall apply to all or any portion of an existing structure constructed prior to 1978

or vacant for a period of at least 10 years.

B. Density.

(1) Eligible structures with a footprint of 10,000 square feet or less shall not be subject to unit density requirements of the underlying district. All units associated with the density relief shall be restricted for non-transient residential occupancy.

(2) For eligible structures with a footprint of greater than 10,000 square feet, the density of dwelling units restricted for non-transient residential occupancy shall not exceed 18 units per acre.

(3) Proposed unit counts may be reduced by the Planning Board if potential impacts to the community cannot be mitigated other than by reducing site density.

(4) Dwelling units not associated with an eligible structure or commercial units, proposed or existing, must meet the density requirements of the underlying district.

(5) Minimum floor area. New dwelling units shall be a minimum of 450 square feet. Floor area shall not include hallways or other common areas, or rooftops, balconies, terraces, fire escapes, or other projections or surfaces exterior to the walls of the building.

(6) All units must be connected to municipal water and sewer.

(7) Adaptive reuse projects shall be within the existing eligible structure.

(8) Structures that are greater than 50 years of age must provide a review completed by the NH Division of Historical Resources. The Planning Board may require historically significant properties to maintain or restore valuable architectural qualities and design features.

C. Findings. In addition to other requirements of this chapter or other applicable regulations, including Site Plan and Subdivision review, the Planning Board shall also find:

(1) The proposed Adaptive Reuse Project will not be detrimental to the safety, value, or welfare of surrounding properties or residence;

(2) That the Adaptive Reuse Project will be designed to current building code standards; and

(3) The Adaptive Reuse Project aligns with the intent of the Master Plan and is

determined to be a community benefit.

§ 190-9.4 Multiple dwelling units.

The Planning Board may grant a conditional use permit to allow up to 14 dwelling units per acre in the Highway Commercial District with the following conditions:

A. Seventy-five percent of the units shall be designated as non-transient occupancy. Units shall be restricted for a minimum of 30 years from the date of issuance of the certificate of occupancy. The applicable restriction shall be recorded with the Carroll County Registry of Deeds as evidence of the same.

B. All lots shall be serviced by municipal water and municipal sewerage.

C. Non-transient residential units shall have a minimum occupiable floor area of 450 square feet. Floor area shall not include hallways or other common areas, or rooftops, balconies, terraces, fire escapes, or other projections or surfaces exterior to the walls of the building.

D. The Planning Board may require additional site improvements to ensure livability factors are considered, such as access to usable green space, pedestrian infrastructure, or other improvements to create dwelling units oriented toward the well-being of residents.

§ 190-9.5 Structural lot coverage and density incentives.

The incentives provided for in § 190-9.5 are intended to allow additional structural lot coverage when specific site design features are included in new development proposals. The incentives may be cumulative but shall conform with all applicable requirements of Chapter 110, Site Plan Review, or Chapter 130, Subdivision Regulations, including green space and buffer setbacks.

A. Minimum standards for conditional use are defined as follows:

(1) The development will not be detrimental to the safety, value, or welfare of surrounding properties or residence;

(2) Increases to lot coverage will not have a detrimental impact to the environment or viewsheds;

(3) The development aligns with the intent of the Master Plan and is determined to fit within the scale of the community.

In addition to the minimum standards for conditional use, one or more of the structural lot coverage incentives, as defined in § 190-9.5(B) through (G) must be

met:

B. Mixed-use development.

(1) Mixed-use units must meet the standards for specific use as defined in §190-9.6.A;

(2) Existing and proposed developments that incorporate new mixed residential and commercial uses, may be permitted an additional structural lot area coverage of 2.5% for each dwelling unit within a mixed-use development;

(3) Mixed-use units shall be designated for non-transient residential use and accessory to a primary commercial use.

C. Developments with a primary vehicular access on collector or local roads that direct vehicles to signalized or adequately controlled intersections may be permitted up to a 10% increase in structural lot coverage.

(1) A traffic study must be provided to demonstrate potential traffic impacts and the ability for congestion to be mitigated.

(2) The applicant must also demonstrate that collector or local roads would not be overburdened with increased traffic flow. Off-site improvements may be necessary to address impacts to infrastructure, provide traffic calming measures, or complete necessary intersection upgrades.

D. Developments that provide shared parking for at least 25% of on-site parking demand may be permitted up to a 5% increase in structural lot coverage.

(1) The applicant must provide easements or other legal documentation to demonstrate the shared parking rights.

(2) The total number of parking spaces must meet alternative parking standards set by Site Plan Review; 110-21.A, Parking, and demonstrate that sufficient parking will exist for all associated uses.

E. Developments which create pedestrian-focused infrastructure meeting the following standards may be permitted up to a 10% increase in structural lot coverage:

(1) A connection must be made to off-site public pedestrian infrastructure if available. This may require off-site improvements.

(2) Onsite pedestrian infrastructure must be separated from vehicular traffic by curbing or a minimum five-foot vegetated buffer.

(3) Site design is pedestrian focused. This is intended to limit road or driveway impervious coverage and create primarily centralized parking areas.

(4) Crosswalks, tip downs, and ADA compliance must be designed to NHDOT standards.

F. Developments which meet the stormwater standards as defined in § 190-28D; Wetland and Watershed Protection Overlay District, may be permitted up to a 5% increase in structural lot coverage.

G. Developments with legally existing nonconforming site features such as signage, curb-cut dimensions, lighting, or greenspace, may be permitted up to a 10% increase in structural lot coverage when site features are voluntarily brought into conformance with current standards. The percentage of additional structural lot coverage granted will be determined based on the significance of the nonconformity being abandoned. However, higher percentages, up to 10%, may be granted when conformance clearly mitigates an impact to an abutter or the community.

§ 190-9.6 Developments of significant use.

A. Individual structural footprints exceeding 12,000 square feet north of North Conway Village Commercial District or 18,000 square feet in the remainder of the Highway Commercial District shall meet the following standards:

(1) Maintain a minimum front setback of 100 feet from White Mountain Highway.

(2) The Planning Board may require a structure setback of up to 50 feet from any existing or approved residential use on an adjacent parcel for the purpose of reducing visual, noise, or other potential impacts.

(3) Regardless of State or Town ownership of the road from which access is to be taken, a traffic impact analysis must be developed by a qualified traffic engineer and approved by the Town.

(4) All other structures are subject to setbacks, greenspace, and buffer requirements of the underlying district and as stated in Chapter 110, Site Plan Review.

(5) Additional principal uses.

(a) Multiple principal uses proposed on sites, which may include new or existing hotel developments, and are determined to be considered new developments, must be considered compatible uses. If permitted, the

Planning Board may require vegetated screening or buffers up to 50 feet between proposed uses;

(b) Proposals intending to develop a parcel with multiple principal uses, which may include new or existing hotel developments, must submit a master plan of the site prior to approval of an application for new development. The intention of this regulation is to anticipate and plan for future development. Subsequent applications may be denied without prior approval of a site master plan;

B. Charitable gaming facilities:

(1) A minimum lot area of four acres and a structure setback of 1,000 feet from any existing or approved residential, school, public land, or religious use is required.

(2) The use shall be visually screened from any public right-of-way.

(3) The gaming floor shall not exceed 1,000 square feet.

(4) Requirements apply to charitable gaming facilities as a primary or accessory use.

C. Drive-through establishments:

(1) Stacking of vehicles must be screened to the highest extent practical;

(2) Stacking must be clearly represented in a traffic study when Site Plan Review is required. Traffic impacts must be mitigated to allow for adequate traffic flow to be managed on site;

(3) Communication and menu displays shall be situated at the rear of the structure for new development and otherwise entirely screened;

(4) Drive-thru establishments must utilize alternative parking standards to limit parking and impervious coverage to the maximum extent practical.

(5) Digital menu boards are only permitted in the Highway Commercial District.

§ 190-9.7 Standards for specific use.

A. Mixed use development.

(1) All residential units within a mixed-use development must be designated as non-transient residential occupancy and be an accessory to a primary

commercial use. Property owners are encouraged to create housing opportunities above first-floor commercial uses.

(2) Residential units within a mixed-use development must be restricted for a period of 30 years from the date of certificate of occupancy issuance. The applicable restriction shall be recorded at the Carroll County Registry of Deeds as evidence of the same.

(3) The maximum number of all units created on a parcel shall be determined by the density of the underlying zone. Additional density may be acquired under § 190-8.4, Inclusionary Zoning.

(4) New dwelling units must have a minimum square footage of 450 feet, not including hallways or other common areas, or rooftops, balconies, terraces, fire escapes, or other projections or surfaces exterior to the walls of the building.

(5) All aspects of the design must be architecturally compatible with surrounding uses and structures. This includes designing for a scale and site layout that complements surrounding neighborhoods.

(6) The Planning Board may institute a fifty-foot buffer between commercial and residential uses which abut or are within the subject parcel.

(7) Mechanical equipment or commercial uses in close proximity to any dwelling unit must be adequately screened to provide access which is safe and free from any nuisance activity including noise or visual pollution.

(8) All uses on-site are compatible as determined Planning Board. The review of site compatibility shall ensure the current or future uses will be able to sustain safe conditions which promote a high quality of life. The Planning Board may require additional site improvements to ensure livability factors are considered such as access to useable greenspace, pedestrian infrastructure, or other improvements which blend the commercial and residential uses to create dwelling units which are oriented toward the well-being of the resident.

§ 190-9.8 Transfer of development rights.

A. Purposes and authority.

(1) This Transfer of Development Rights (TDR) provision is enacted to implement the goals of the Conway Master Plan, adopted April 25, 2024, including protecting the Saco & Swift River watersheds and drinking water resources, and encouraging development in locations served by municipal

infrastructure. These goals are accomplished by allowing, under certain conditions, increased structural lot coverage when development is balanced with permanent protections of the Saco & Swift River Watersheds through the payment of development transfer fees dedicated to this purpose.

(2) Increased lot coverage is permitted in the Highway Commercial District, consistent with the master plan's future land use recommendations. Offsetting land is intended to be within the Saco & Swift River Watersheds to preserve critical environments, protect against flooding, and safeguard drinking water resources.

(3) This § 190-9.8 is enabled by RSA 674:21(I) (Innovative Zoning Land Use Controls) and RSA 674:21(II) relative to conditional use permits. Development transfer, as established in this § 190-9.7, is a specific application of RSA 674:21(I)(d), "Transfer of density and development rights."

(4) Further, this § 190-9.8 is enacted to implement future land use recommendations of the Master Plan regarding the protection of important natural resources, the preservation of open space, and the establishment of efficient development patterns in the community.

(5) The purpose and intent of the § 190-9.8 is further specified as follows:

(a) To protect important natural resources, including shoreline, floodplains, prime wetlands, waterbodies, and drinking water sources in the Saco & Swift River Watersheds, within the Town;

(b) To foster a more sustainable pattern of growth by encouraging development within or near existing areas of development and infrastructure;

(c) To reduce sprawl and the rate of consumption of undeveloped land; and

(d) To focus development to areas which are serviced by adequate infrastructure and are able to balance potential impacts to the community.

B. Applicability.

(1) The use of TDR by landowners is optional. Approval of a specific application is at the discretion of the Planning Board, granted through a conditional use permit. If the development transfer option is not requested or not approved, the provisions of the underlying district remain in effect.

(2) TDR may be utilized for infill development, mixed-use development, and applicable residential or commercial projects which are subject to site plan or subdivision review, provided that:

(a) The development is to be located within the Highway Commercial District.

(b) The landowner or developer will pay a development transfer fee to the Town to acquire land, impose deed restrictions, or establish easements in areas designated for watershed preservation and drinking water protection. The amount of the fee shall be determined in accordance with the process described in § 190-9.8(G).

(c) A conditional use permit is approved.

C. Designation of development transfer area.

(1) Funds obtained for the purpose of exceeding by-right structural lot coverage may be applied within the Saco & Swift River Watersheds in the Town for land or structures within the floodplain; preservation of shoreland, wetland and waterbody buffers; and aquifer or drinking water source protection.

(2) Funds shall be submitted to the Conservation revolving fund in a specific account referencing the Transfer of Development Rights funds. The Conservation Commission shall administer the funds as specified in this § 190-9.7 and RSA 36-A:5.

D. Development transfer determination.

(1) Procedure.

(a) Notification. A landowner or developer intending to utilize this § 190-9.7 must notify the Planning Board of this intent upon application for preliminary review. The Planning Board shall determine the eligibility of the proposed development and review with the applicant the criteria for conditional use approval.

(b) Conflicting provisions. Where conflicts exist with requirements of an underlying district, the provisions of § 190-9.8 shall apply, provided that the application complies with § 190-9.8 and any conditions required as part of the conditional use permit.

(c) Plan notation. Any subdivision or site plan submitted for TDR approval must include a plan notation to be filed with the plan at the Registry of Deeds stating that a development transfer fee will be required prior to

the issuance of the building permit. The fee shall be determined at the time of final approval in accordance with the fee schedule set forth in § 190-9.8G.

E. Development transfer standards.

(1) Increases in structural lot coverage permitted under this § 190-9.8 shall only apply in the Highway Commercial District.

(2) The allowable increase to structural area may be determined by the planning board as part of the subdivision or site plan approval process.

(3) No developmental increase shall be permitted above that which would fall below the minimum required wetland, shoreline, or other applicable environmental setbacks.

(4) All standards, including greenspace requirements, shall be meet as stated in Chapter 110, Site Plan Review.

(5) The Planning Board may approve a smaller structural lot coverage increase than requested, based on site characteristics, neighborhood context, or other considerations to mitigate impacts to the community.

(6) Density transfer credits.

(a) The mechanism for implementing development transfers established under this ordinance is a development transfer credit. To utilize increased structural lot coverage, the appropriate number of transfer credits must be acquired by paying a development transfer fee.

(b) Density transfer credits shall be calculated based on the percentage of proposed structural lot coverage subtracted by the lot coverage permitted by right or development incentive.

(7) Development transfer fee. The development transfer fee required to purchase development transfer credits shall be based on the percentage of structural lot coverage and assessed at the time of final Planning Board approval. The fee schedule shall be established by the Board of Selectmen and updated periodically to reflect changing market conditions. The objective of the fee structure shall be to generate sufficient funds to offset the additional lot coverage with the permanent protection of land within the Saco & Swift River Watersheds.

F. Conditional use permit.

(1) Approval of a development proposal utilizing this § 190-9.8 are subject to a conditional use permit approval by the Planning Board. The Board's decision shall be based on compliance with the standards of approval set forth below. The Board shall issue findings and conditions, which shall be filed with the plan if approved.

(2) Standards for approval. The following standard must be met or mitigated to the Planning Board's satisfaction prior to granting the conditional use permit. These standards should be reviewed within the scope of impacts caused specifically by the increase in structural lot coverage sought under the provisions of this chapter.

(a) Compatibility with existing use. The proposed development is compatible with existing character and setting. This standard shall consider design and function; architectural compatibility, including roof type and pitch, style of units, and building materials; screening and privacy; and other factors as appropriate to fit in with the surrounding community.

(b) Traffic impact. The higher developmental use will not unreasonably impact nearby intersections and corridors, nor result in added future costs for the town beyond that for a development of standard lot coverage.

(c) Historic and cultural resources. Increased development will not result in the loss or impairment of historic buildings, settings or landscapes beyond that for a development of standard lot coverage.

(d) Municipal facilities and services. Increased density of the proposed development will not exceed the capacity of required municipal services beyond that which will be mitigated as a normal condition of approval.

(e) General considerations. The proposed development is consistent with the Town's master plan and the purpose and intent of TDR. The increase of development, when also considering the offsetting conservation of developable land, will not result in undue future expenses to the Town. The proposed development will not create a hazard to the public health, safety, and welfare of the community.

(3) Conditions. The Planning Board may impose additional conditions in its approval of the conditional use permit, as deemed necessary to accomplish the goals of the TDR provision, including, but not limited to, reducing the maximum structural lot coverage.

G. Use and disposition of development transfer fee.

(1) Establishment and use of development transfer credits.

(a) Development transfer fees collected pursuant to § 190-9.8 shall be deposited into a non-lapsing development transfer fund account administered by the Conservation Commission (RSA 41:29). The account is established for the purpose of collecting, holding, and disbursing funds for the acquisition of fee interest, conservation easements, or preservation efforts.

(b) The acquisitions shall be made within the Saco and Swift River Watersheds within the Town of Conway. The fund may also be used to offset costs for property appraisals, the preparation of deed restrictions and easement documents, and other costs directly related to the acquisition of the lands.

(c) The development transfer fund may be used in conjunction with other local, state, federal, or private funds to acquire land, provided that the land will remain permanently undeveloped and is located within a designated area.

(2) Disposition of protected land.

(a) Any land acquired using development transfer fees shall be permanently restricted from development by easement or covenant, which shall run with the land. The land shall be used only for watershed management, drinking water protection, surface water habitat protection, or restoration.

(b) The fees may also be used to purchase structures within the floodplain that would be removed and the underlying land placed in conservation. Ownership of the land may be held by the Town under management of the Conservation Commission, or may be transferred, upon the approval of the Board of Selectmen, to a recognized conservation organization or land trust provided that the land will remain permanently protected and subject to restrictions defined within this § 190-9.8, and that ownership will be returned to the Town upon dissolution of the organization.

Article 10. Overlay Districts

§ 190-10.1 Mountain Conservation Overlay (MCO) District.

A. Purposes. The MCO District is primarily designed to preserve scenic mountain areas.

B. District boundaries and map.

(1) District boundaries. The Mountain Conservation District shall consist of all land north and east of the Saco River 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 appendix to this chapter.

C. Permitted uses.

(1) The following uses shall be permitted in the MCO if also permitted in the underlying district.

(a) Forestry and accessory uses

(b) Farm and logging roads

(c) Tree farming

(d) Undersized lots, buildable

(e) Protective rip rap

(f) Boat landings and access areas

(g) Conservation areas

(h) Recreation trails

(i) Timber removal

(j) Utility systems

(k) Wetland or stream crossings

(l) Wildlife refuges

(m) Insecticides

(n) Chemical fertilizer

(2) Permitted in the MCO only if permitted in the underlying Recreational Resort District:

(a) Alpine ski trails.

(b) Alpine ski lifts.

(c) Snowmaking equipment.

(d) Night ski lighting.

D. Special exceptions.

(1) Signs for permitted uses and existing nonconforming uses as provided in § 190-5.3, Nonconformity, provided that the signs meet the minimum standards and intent for signs in the underlying district.

(2) Wireless communication towers, <55 feet

(3) Wireless communication towers, >55 feet

(4) Helicopters.

(a) 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.

(b) No approval for a special exception shall be granted unless the ZBA finds that the helicopter use will not constitute a nuisance or hazard to residents and their property.

E. Excavation shall be prohibited in the MCO District.

§ 190-10.2 Floodplain Conservation Overlay (FCO) District.

A. Purposes. Certain areas of the Town of Conway are subject to periodic flooding, causing serious damage to properties within these areas. Relief is available through flood insurance, as authorized by the National Flood Insurance Act of 1968. Therefore, the Town of Conway has chosen to become a participating community in the National Flood Insurance Program and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as detailed in this Floodplain Conservation Overlay District (FCO).

B. Establishment.

(1) The Conway Floodplain Conservation Overlay District (FCO) is adopted under the authority of RSA 674:16. The regulations of the FCO shall overlay and supplement the regulations of underlying districts and shall be administered and enforced under the provisions of this chapter. If any provision of this § 190-10.2 differs or appears to conflict with any provision of this chapter or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall control.

(2) The invalidity of any section or provision of this § 190-10.2 shall not invalidate any of its remaining sections or provisions. It shall be the duty of the Board of Selectmen (or its designee) to enforce and administer the provisions of this Ordinance in accordance with RSA 676 and § 11-1.

C. Applicability.

This § 190-10.2 shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the Town of Conway, N.H." dated March 19, 2013, or as amended, together with the associated Flood Insurance Rate Maps dated March 15, 2026, or as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference.

D. Permits.

All proposed development in any special flood hazard area shall require a permit.

E. Construction requirements.

The Building Inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a special flood hazard area, all new construction or substantial improvements shall be:

(1) Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) Constructed with flood damage-resistant materials;

(3) Constructed by methods and practices that minimize flood damages; and

(4) Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

F. Water and sewer systems.

Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area the applicant shall provide the Building Inspector with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

G. Certification

(1) For all new or substantially improved structures located in special flood hazard areas, the applicant shall furnish the following information to the Building Inspector:

(a) The as-built elevation (in relation to mean sea level) of the lowest floor (including basement) and include whether such structures contain a basement.

(b) If the structure has been floodproofed, the as-built elevation (in relation to mean sea level) to which the structure was floodproofed.

(c) Any certification of floodproofing.

(2) The Building Inspector shall maintain the aforementioned information for public inspection and shall furnish such information upon request.

H. Other permits.

The Building Inspector shall not grant a building permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U. S. C. 1334.

I. Watercourses.

(1) In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies

of such notification to the Building Inspector, 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 communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Bureau.

(2) The applicant shall submit to the Building Inspector, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.

(3) 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.

(4) Until a Regulatory Floodway is designated along watercourses, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zone 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.

(5) The Building Inspector shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement:

"No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge."

J. Special Flood Hazard Areas.

(1) In a special flood hazard area, the Building Inspector shall determine the base flood elevation in the following order of precedence according to the data available:

(a) In Zone AE, refer to the base flood elevation data provided in the community's Flood Insurance Study and accompanying FIRM.

(b) In Zone A, the Building Inspector shall obtain, review, and reasonably utilize any base flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals). Where a base flood elevation is not available or not known for Zone A, the base flood elevation shall be determined to be at least 2 feet above the highest adjacent grade.

(c) In Zone AO, the 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 2 feet.

(2) The Building Inspector's base flood elevation determination will be used as criteria for requiring in special flood hazard areas that:

(a) All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the base flood elevation.

(b) That all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the base flood elevation; or together with attendant utility and sanitary facilities, shall:

[1] Be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

[2] Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

[3] Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.

(c) All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation; and be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

K.

(a) All recreational vehicles placed on sites within a special flood hazard area shall either:

[1] Be on the site for fewer than 180 consecutive days;

[2] Be fully licensed, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

[3] Meet all applicable standards of this ordinance and the elevation and anchoring requirements for "manufactured homes" in this ordinance.

(b) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:

[1] the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;

[2] the area is not a basement;

[3] shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two flood openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all flood openings shall be no higher than one foot above grade. Flood openings may be equipped with screens, louvers, or other coverings or devices provided they permit the automatic entry and exit of floodwater.

(c) Proposed structures to be located on slopes in special flood hazard areas, Zone AO shall include adequate drainage paths to guide floodwaters around and away from the proposed structures. (Item (f) can be deleted if there are Zone AO on the maps.)

L. Variances and appeals.

(1) Any order, requirement, decision, or determination of the Building Inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.

(2) If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I, the applicant shall have the burden of showing in addition to the usual variance standards under state law that:

(a) The variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.

(b) If the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.

(c) The variance is the minimum necessary, considering the flood hazard, to afford relief.

(3) The Zoning Board of Adjustment shall notify the applicant in writing that:

(a) The issuance of a variance to construct below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and

(b) Construction below the base flood elevation increases risks to life and property.

Such notification shall be maintained with a record of all variance actions.

(4) 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 biennial report submitted to FEMA's Federal Insurance Administrator.

§ 190-10.3 Shoreline Protection Overlay (SPO) District.

A. Purposes.

(1) 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.

(2) Excavations are specifically prohibited in this district.

(3) 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.

B. 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.

C. Permitted uses. All uses permitted in the underlying district shall be permitted in the SPO district except the following, which are prohibited:

(a) Excavation (noncommercial)

(b) Bulk chemical storage facilities

(c) Crematories

(d) Excavations, commercial

(e) Hazardous waste facilities

(f) Heliports

(g) Processing excavated materials

(h) Salt storage facilities

(i) Snow dumps

(j) Solar uses

(k) Solid waste facilities

(l) Bulk storage tanks, hazardous materials

(m) Insecticides

(n) Chemical fertilizer

D. Special exceptions. The following shall be prohibited in the SPO unless granted a special exception by the ZBA. If granted a special exception under this subsection, a site plan review approval shall be required prior to construction.

(1) Protective riprap. Riprap to protect shores from erosion shall be granted a special exception by the ZBA, provided that the following conditions are met:

[1] All required state and federal permits are obtained; and

[2] 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 ZBA, 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 ZBA by up to 50% to

facilitate maximum shoreline protection.

(c) Clearing of lots may be limited by the ZBA 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 ZBA, 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.

E. Water frontage. All lots fronting on a Great Pond shall have a minimum of 150 feet of water frontage.

F. 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:

(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.

G. 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.

H. 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.

I. Buffer. There shall be a 50-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 the 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 every 150 feet of waterfrontage. The paths shall be designed to prevent erosion and runoff into the lake. If any lot is allowed more than one access path, the access paths shall be separated by at least 50 feet.

(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 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, 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.

(4) No cutting or trimming of living tree limbs shall be permitted.

(5) Dead trees and dead limbs may be cut down upon written authorization from the Zoning Officer.

(6) For existing beaches permitted by Subsection K, some clearing of land within the buffer is required. In no case shall clearing for a beach extend inland more than 10 feet from the normal high-water elevation, and the clearing shall be no longer, deeper, or wider than the permitted beach as it existed on or before April 9, 2023.

(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.

J. Docks. Docks shall be permitted as follows:

(1) Maximum number of docks shall be one per 150 feet of water frontage, but lots with less than 150 feet of water frontage are permitted one dock.

(2) A dock, 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.

K. 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 that is not owned by a unit of government shall

be regulated as follows:

(1) Existing beaches may be maintained without the use of any machines or motorized equipment below the high-water elevation. Washed sand shall be the only material which may be added to the beach. The amount of washed sand added shall not exceed one cubic yard per three feet of beach length in any five-year period. A zoning permit and all applicable state permits shall be required before any sand is deposited, and it shall be the responsibility of the Zoning Officer to maintain records to monitor beach maintenance.

(2) New beaches may be created only when the following conditions are met:

(a) The lot shall be considered to have an area suitable for a beach if it meets each of the following criteria:

[1] The slope of land from the high-water elevation to a line 10 feet inland shall not have slopes steeper than 10%.

[2] The slope of the land from the high-water elevation to a line 20 feet out into the water shall not have slopes steeper than 10%.

[3] The proposed beach site shall be determined by an independent wildlife biologist to be of minimal importance as fish habitat 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 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 K(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 upon completion of construction. The professional engineer shall certify that all work is completed in accordance with the plans provided to the Town and in ae requirements.

(g) All other required permits and approvals are obtained.

L. Shorefront common areas. Shorefront common areas are those areas used for water recreation or access by users living off-site. The 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.

M. 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).

N. Water quality. To protect the lakes' water quality, the application of chemical fertilizers, 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

§ 190-10.4 Wetland and Watershed Protection Overlay (WWPO) District.

A. Purposes. The purposes of the Wetlands and Watershed Protection Overlay (WWPO) District are to:

(1) Protect public health, safety, and general welfare by promoting the most appropriate land use and protecting wetland ecosystems and water quality, all in accordance with the goals and objectives of the Conway Master Plan.

(2) Protect the following resource areas:

(a) Valuable wetland and water resources;

(b) Unique and unusual natural areas;

(c) Fish and wildlife habitats that provide breeding, nesting, and feeding grounds for many forms of plant and animal life, including rare, threatened, or endangered species;

(d) Existing and potential water supplies, aquifers, and aquifer recharge areas;

(3) Prevent the following actions and their harmful impact on wetland resources:

(a) Harmful filling, draining, sedimentation, or alteration of wetlands and watercourses;

(b) Development of structures and land uses on naturally occurring wetlands, which could contribute to pollution of surface water and groundwater by sewage;

(c) Destruction or significant degradation of wetlands, which provide flood and storm control by the hydrologic absorption and storage capacity of the wetland;

B. Applicability.

(1) All proposed development, removal of vegetation, or alteration of the land surface within the WWPO are subject to this § 10.4.

(2) Exemptions. Wetlands constructed for stormwater treatment, agricultural

use, waste treatment, or other such purposes are exempt from the provisions of the WWPO District.

C. District boundaries and map.

(1) The Wetlands Conservation Overlay District includes:

NATURAL RESOURCE	BUFFER AREA		OVERLAY DISTRICT
	Vegetated	Structure	
Surface Waters of the State	50’	100’	300’
Wetlands 1/2 Acre or Greater	50’	100’	
Wetlands Adjacent to Surface Water of the State	50’	100’	
Prime Wetlands	50’	100’	
Bogs	100’		
Vernal Pools	100’		

(2) The District shall also include wetlands identified by the State of New Hampshire or wetlands delineated in the field by a certified wetlands scientist.

(3) Prior to any site disturbance, all wetlands, regardless of size, shall be delineated by a certified wetland scientist utilizing the standards of the U.S. Army Corps of Engineers. Sufficient documentation must be provided to clearly identify wetland boundaries and assess potential impacts.

D. Boundary Disputes.

(1) When a boundary of the WWPO District is disputed by either the Conway Conservation Commission or the applicant, the Conservation Commission may engage at the applicant’s expense an independent certified wetlands scientist to determine the location of the Wetland Conservation Overlay District limit on the properties affected. The delineation shall be consistent with DES Wetlands Bureau Rules, as amended.

(2) The completion of a New England District Wetland Delineation Datasheet (US Army Corps of Engineers, 2000) by a certified wetland scientist can provide the appropriate level of documentation to address questions about the delineation. The Conservation Commission shall make the final determination of the wetlands limit based on its consultant’s report. The WWPO District Map shall be amended to incorporate the results of any such studies.

E. Use Regulations.

(1) Permitted Uses. Uses permitted under this § 10.4 are presumed to be

consistent with the protection of wetland functions and values when in accord with the following and are therefore allowed in the WWPO District by Zoning Permit. Permitted uses include:

(a) Passive recreation or educational development, such as the establishment of trails or related activities that do not have a water quality impact.

(b) Wildlife or fisheries management.

(c) Agriculture in the wetland buffer, consistent with best management practices published by the NH Department of Agriculture, Markets and Food, outside of the vegetated buffer.

(d) Forest management in the wetland buffer, consistent with best management practices published by the N.H. Department of Resources and Economic Development and UNH Cooperative Extension, outside of the vegetated buffer.

(e) Site development that creates a total structural lot coverage of less than 25% and is outside of any vegetated buffer area.

(2) Prohibited Uses. Any use not specifically permitted is expressly prohibited unless allowed by the grant of a Special Exception under Subsection G. The following are expressly prohibited:

(a) Excavations, as defined by Chapter 47.

(b) Development within a vegetated buffer, other than that associated with a lawfully preexisting nonconforming structure.

(c) Any development that results in the pollution of the wetlands, surface water, or groundwater.

(d) Disposal of snow and ice collected from roadways and parking areas other than the immediate disposal of snow and ice resulting from the active plowing of a road within the buffer area.

(3) Permitted Uses by Special Exception. All activities in the WWPO not listed in Subsection F(1) are presumed to risk impairment to the wetland functions and values unless proven otherwise by the applicant as provided below. The following uses may be granted a Special Exception by the ZBA, following review by and comments from the Conservation Commission:

(a) Construction or development that creates a total site structural lot

coverage exceeding 25%, outside of the vegetated buffer.

(b) Modifications of the natural surface configuration by re-contouring or grading of the land in a manner that alters natural stormwater flow entering wetlands.

(c) Filling, dredging, or draining of the wetland, when approved by the State of New Hampshire.

(d) Clearing of vegetation, which includes the removal of stumps of greater than 25% of the lot area. Any clearing of land is prohibited within a vegetated buffer

(e) The construction, repair, or maintenance of streets, roads, and other access ways, including driveways, footpaths, bridges, and utility right-of-way easements, including power lines and pipelines, if essential to the productive use of land adjacent to the WWPO District. These uses shall be located and constructed in such a way as to minimize any detrimental impact upon the wetlands and consistent with applicable state recommended design standards and only if no viable alternative is available.

(f) Water impoundments for the purpose of creating a waterbody for wildlife, fire safety, or recreational uses. Special Exception may be granted for impoundments for on-site detention of stormwater runoff in buffers only.

(g) Expansion of a nonconforming use or structure may be allowed in the wetland buffer provided that the encroachment upon the wetland is not increased and the Conservation Commission, following review of the proposed expansion, finds that any potential increased impact upon the wetland functions will be mitigated.

F. Special Exception Submission Requirements and Procedures.

(1) Application for a Special Exception shall be made on forms supplied by the Planning Department and shall include a plan of the site containing the following information on one or more sheets at a scale of 1 inch = 100 feet or larger, and a report demonstrating compliance with the requirements listed below in Subsection F(2):

(a) North arrow and date.

(b) Property lines.

(c) Locus map showing adjacent wetlands and other significant hydrological features.

(d) Names and addresses of abutting property owners and holders of conservation restrictions and easements.

(e) Wetland limit and wetland buffer.

(f) Soil types.

(g) Vegetation types.

(h) Erosion Controls.

(i) Topographic contours at no greater than 2-foot intervals.

(j) Surface drainage patterns, intermittent and year-round.

(k) Existing and proposed development, removal of vegetation, and alteration of the land surface.

(l) Computation of the area to be impacted, in square feet of surface area and cubic yards of cut and fill.

(m) Stormwater management proposed during and after construction.

(2) The Conservation Commission shall consider all relevant facts and circumstances and make a recommendation to the ZBA on any application for a permit and shall make findings that the project is both consistent with the purposes of this § 10.4 and minimizes impacts to the wetland and buffers, including but not limited to the following:

(a) The proposed activity minimizes the degradation to, or loss of, wetlands and wetland buffers, and compensates for any adverse impact to the functions and values of wetlands and wetland buffers, including but not limited to the capacity of the wetland to:

[1] Prevent flooding;

[2] Protect surface and ground waters;

[3] Control sediment;

[4] Control pollution;

[5] Support wetland vegetation.

(b) The proposed activity will have no negative environmental impact to abutting or downstream property and/or hydrologically connected water and/or wetland resources, the applicant for Special Exception shall identify the management of the following:

[1] Erosion

[2] Siltation

[3] Turbidity

[4] Loss of unique habitat having demonstrable natural, scientific, or educational value.

[5] Risk of flooding or pollution to a wetland or water resource.

[6] Destruction of any public benefit, including water quality, of the wetland or water resource to the community.

(c) The proposed activity or use cannot practicably be located otherwise on the site to eliminate or reduce the impact to the wetland or its buffer. The Zoning Board may consider unique site characteristics when determining practical alternatives, not to include financial aspects of development.

(d) The proposed activity utilizes applicable best management practices, as defined by the New Hampshire Stormwater Manual.

(3) The ZBA may attach conditions to its approval of a special exception, including but not limited to requirements for more extensive buffers, additional plantings in areas to be revegetated, performance guarantees, and a reduction in proposed impervious surfaces.

(4) Federal or state permit(s) have been submitted for the proposed activity in accordance with N.H. Administrative Rules Env-Wt 100-800 and the Federal Clean Water Act Section 404 Permit. Any request for more information requested by the State of NH, shall be submitted to the Town.

(5) Where applicable, proof of compliance with all other state and/or federal regulations has been received.

(6) Prior to making a decision, the ZBA shall provide the Conservation Commission an opportunity to provide comments and shall consider any such comments provided.

G. Identification of Buffer

(1) The entire length of the upland limit of the wetland buffer shall be marked with highly visible construction tape prior to, and maintained for the full duration of, any construction-related activities.

(2) The ZBA may require the applicant to:

(a) Place a permanent monument (e.g., iron pin, granite bound) at all points of the lot lines that intersect with the upland limit of the WWPO prior to any activity on the lot. The monuments shall be shown on the plan of the site submitted with the Special Exception application.

(b) Affix tags to trees or other durable objects (e.g., 4” x 4” wood posts) at 50-foot intervals along the upland boundary of the WWPO and maintain the tags as needed to provide evidence of the upland side buffer boundary.

§ 190-10.5 Groundwater Protection Overlay (GWPO) District.

A. Purposes and Authority.

(1) Purpose.

(a) The purpose of this § 10.5 is, in the interest of public health, safety, and general welfare, to preserve, maintain, and protect from contamination existing and potential groundwater supply areas and to protect surface waters that are fed by groundwater.

(b) This purpose is to be accomplished by regulating land uses which could contribute pollutants to designated wells or aquifers identified as being needed for present or future public water supply.

(2) The Town adopts this § 10.5 under the authority granted under RSA 674:16 as an Innovative Land Use Control pursuant to RSA 674:21. This § 10.5 shall be administered, including the granting of conditional permits, by the Planning Board.

B. Groundwater Protection Overlay District.

(1) The Groundwater Protection District is an overlay district which is superimposed over the existing underlying zoning and includes within its boundaries the Wellhead Protection Areas and Stratified Drift Aquifers, and associated groundwater recharge areas shown on the map entitled "Town of Conway Groundwater Protection District,” on file in the Planning Department.

(2) Where the bounds of an identified groundwater or recharge area, as delineated, are in doubt or in dispute, any person aggrieved by such delineation may appeal the boundary location to the Planning Board. Upon receipt of a written appeal, the Planning Board shall suspend further action on development plans related to the area under appeal and shall engage, at the expense of the person aggrieved, a qualified hydrologist to prepare a report determining the proper location and extent of the groundwater and recharge area relative to the property in question.

(3) The overlay applies to existing and future Well Head Protection Areas regardless of their identification on the "Town of Conway Groundwater Protection District" map. After obtaining the appropriate property rights, future Wellhead Protection Areas may be identified and protected when specified within the water and sewer master plan.

C. District boundaries and map. The Groundwater Protection Overlay District boundaries encompass the groundwater extraction and recharge areas represented by the stratified-drift aquifers and future or existing Wellhead Protection Areas (WHPAs) as designated on the Town of Conway Groundwater Protection District Map. Stratified-drift aquifers and WHPAs are defined below.

(1) Stratified-drift aquifer: A geologic formation of predominantly well-sorted sediment deposited by or in bodies of glacial meltwater, including gravel, sand, silt, or clay, which contains sufficient saturated permeable material to yield significant quantities of water to wells. For the purposes of the Groundwater Protection District, a stratified-drift aquifer is defined as having a transmissivity of 1,000 square feet per day or more.

(2) Wellhead Protection Areas (WHPAs): The WHPA is a sub-district of the Groundwater Protection District and comprises a 400-foot protective radius or concentric zone identifying hydrological flow, whichever has a lesser area, around each well serving municipal water systems, including:

(a) Conway Village Fire District wells.

(b) North Conway Water Precinct wells.

D. Use regulations.

(1) All uses permitted by right or allowed by special exception in the underlying district are permitted in the Groundwater Protection District unless they are prohibited uses or conditional uses. All uses must comply with the performance standards unless specifically exempt under Subsection E.

(2) Within the protective radius of the WHPAs, only the following land uses are permitted: open space, gravel driveways, and structures relating to the well and water distribution system.

(3) Any change in land use within the protective radius of a WHPA shall require a permit from the Zoning Officer. The Zoning Officer shall require a completed Zoning Permit 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 that owns the well for review and comment. The Zoning Officer shall not issue an approval for the change of use until approved by the municipal entity.

(4) The following uses are prohibited in the Groundwater Protection District:

(a) The development or operation of a solid waste landfill.

(b) The outdoor storage of road salt or other deicing chemicals in bulk.

(c) The development or operation of a junkyard.

(d) The development or operation of a snow dump.

(e) The development or operation of a wastewater or septage lagoon.

(f) The development or operation of a petroleum bulk plant or terminal.

(g) The development or operation of gasoline stations.

(h) Development or operation of laundry and dry-cleaning establishments.

(i) Spreading of septage or sludge.

(5) Conditional uses. The Planning Board may grant a conditional use permit for a use which is otherwise permitted in the underlying district if the permitted use is involved in one or more of the following:

(a) Storage, handling, and use of regulated substances in quantities exceeding 55 gallons or 660 pounds dry weight at any one time, provided that an adequate SPCC plan, in accordance with Subsection G, is approved by the local Fire Department or their designee.

(b) Any use that will render impervious more than 15% or 2,500 square feet of any lot, whichever is greater.

(c) Any activities that involve blasting of bedrock.

(d) In granting such approval, the Planning Board must first determine that the proposed use is not a prohibited use (Subsection D(4)) and will be comply with the performance standards in Subsection E as well as all applicable local, state, and federal requirements. The Planning Board may, at its discretion, require a performance guarantee or bond, in an amount and with surety conditions satisfactory to the Board, to be posted to ensure completion of construction of any facilities required for compliance with the performance standards.

E. Performance standards. The following performance standards apply to all uses in the Groundwater Protection District unless exempt under Subsection G:

(1) For any new or expanded uses that will render impervious more than 15% or more than 2,500 square feet of any lot, whichever is greater, a stormwater management plan shall be prepared which the planning board determines is consistent with New Hampshire Stormwater Manual Volumes 1-3, December 2008, NH Department of Environmental Services.

(2) Conditional uses, as defined under Subsection I shall develop stormwater management and pollution prevention plans and include information consistent with Developing Your Stormwater Pollution Prevention Plan: A Guide for Industrial Operators (US EPA, Feb 2009). The plan shall demonstrate that the use will:

(a) Meet minimum stormwater discharge setbacks between water supply wells and constructed stormwater practices as found within the Innovative Land Use Planning Techniques: A Handbook for Sustainable Development, Section 2.1 Permanent (Post-Construction) Stormwater Management, (NHDES, 2008 or later edition).

(b) Minimize, through a source control plan that identifies pollution prevention measures, the release of regulated substances into stormwater.

(c) Stipulate that expansion or redevelopment activities shall require an amended stormwater plan and may not infiltrate stormwater through areas containing contaminated soils without completing a Phase I Assessment in conformance with ASTM E 1527-05, also referred to as All Appropriate Inquiry (AAI).

(d) Maintain a minimum of four feet vertical separation between the bottom of a stormwater practice that infiltrates or filters stormwater and the average seasonal high water table as determined by a licensed hydrogeologist, soil scientist, or engineer.

(e) Prior to any site disturbance, areas to be utilized for stormwater infiltration must be flagged and protected to prevent unnecessary soil compaction.

(3) Animal manures, fertilizers, and compost must be stored in accordance with the Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food (June 2011) and any subsequent revisions.

(4) All regulated substances stored in containers with a capacity of five gallons or more must be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains, and outside drains.

(5) Facilities where regulated substances are stored must be secured against unauthorized entry by means of a door or gate that is locked when authorized personnel are not present and must be inspected weekly by the facility owner.

(6) Outdoor storage areas for regulated substances, associated material, or waste must be protected from exposure to precipitation and must be located at least 50 feet from surface water or storm drains, at least 75 feet from private wells, and outside the sanitary protective radius of wells used by public water systems.

(7) Secondary containment must be provided for outdoor storage of regulated substances in regulated containers, and the containment structure must include a cover to minimize accumulation of water in the containment area and contact between precipitation and storage containers.

(8) Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being transferred from one container to another.

(9) Prior to any land-disturbing activities, all inactive wells on the property not in use or properly maintained at the time the plan is submitted shall be considered abandoned and must be sealed in accordance with We 604 of the New Hampshire Water Well Board Rules.

(10) Blasting activities shall be planned and conducted to minimize groundwater contamination. Excavation activities should be planned and conducted to minimize adverse impacts to hydrology and the dewatering of nearby drinking water supply wells.

(11) All transfers of petroleum from delivery trucks and storage containers over

five gallons in capacity shall be conducted over an impervious surface having a positive limiting barrier at its perimeter.

F. Spill Prevention, Control, and Countermeasure (SPCC) Plan. Conditional uses, as described under Subsection I, using regulated substances shall submit a Spill Prevention, Control, and Countermeasure (SPCC) Plan to the Fire Chief or their designee, who shall determine whether the plan will prevent, contain, and minimize releases from ordinary or catastrophic events such as spills, floods, or fires that may cause large releases of regulated substances. The plan shall include:

(1) A description of the physical layout and a facility diagram, including all surrounding surface waters and wellhead protection areas.

(2) A contact list and phone numbers for the current facility response coordinator(s), cleanup contractors, and all appropriate federal, state, and local agencies to be contacted in case of a release to the environment.

(3) A list of all regulated substances in use and their locations of use and storage.

(4) A prediction of the direction, rate of flow, and total quantity of regulated substances that could be released where experience indicates a potential for equipment failure.

(5) A description of containment or diversionary structures or equipment to prevent regulated substances from infiltrating into the ground.

(6) A list of positions within the facility that require training to respond to spills of regulated substances.

(7) Prevention protocols to be followed after an event to limit future large releases of any regulated substance.

(8) Existing non-conforming uses.

(a) Existing non-conforming uses within the Groundwater Protection District may continue without expanding or changing to another non-conforming use, but they must comply with all applicable state and federal requirements, including Env-Wq 401, Best Management Practices Rules.

(b) Pre-existing nonconforming uses within the protective radius of the WHPAs may be required to come into conformance with State or local regulations should any use be considered a health threat under RSA 485-C or RSA 147 as determined by the Health Officer.

G. Exceptions. The following uses are exempt from the provisions of this § 190-10.5, provided they comply with all applicable local, state, and federal requirements.

(1) Any private residence is exempt from all performance standards.

(2) Any business or facility where regulated substances are stored in containers with a capacity of less than five gallons is exempt from Performance standards Subsection E(5) through (8).

(3) Storage of heating fuels for on-site use or fuels for emergency electric generation, provided that storage tanks are indoors on a concrete floor or have corrosion control, leak detection, and secondary containment in place, is exempt from performance standard Subsection E(5).

(4) Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by that vehicle is exempt from Performance Standards Subsection E(5) through (8).

(5) Storage and use of office supplies are exempt from Performance Standards Subsection E(5) through (8).

(6) Temporary storage of construction materials on a site where they are to be used is exempt from performance standards Subsection E(5) through (8) if incorporated within the site development project within six months of their deposit on the site.

(7) The sale, transportation, and use of pesticides as defined in RSA 430:29 XXVI are exempt from all provisions of this § 190-10.5.

(8) Household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Hw 401.03(b)(1) and 501.01(b) are exempt from performance standards Subsection E(5) through (8).

(9) Underground storage tank systems and aboveground storage tank systems that comply with applicable state rules are exempt from inspections under Subsection I of this § 190-10.5.

H. State and local requirements. Where both the state and the municipality have existing requirements, the more stringent shall govern.

I. Maintenance and inspection.

(1) For uses requiring Planning Board approval for any reason, a narrative description of maintenance requirements for structures required to comply with performance standards shall be recorded so as to run with the land on

which such structures are located, at the Carroll County Registry of Deeds. The description so prepared shall comply with the requirements of RSA 478:4-a.

(2) Inspections may be required to verify compliance with performance standards. Such inspections shall be performed by the Town Staff at reasonable times with prior notice to the landowner.

(3) All properties in the Groundwater Protection District known to the Town as using or storing regulated substances in containers with a capacity of five gallons or more, except for facilities where all regulated substances storage is exempt from this ordinance under Subsection G, shall be subject to inspections under this Subsection.

(4) The Town may require a fee for compliance inspections. The fee shall be paid by the property owner. A fee schedule shall be established by the Board of Selectmen as provided for in RSA 41-9:a.

J. Enforcement. Any violation of the requirements of this shall be subject to the enforcement procedures and penalties detailed in RSA 676 or RSA 485-C.

K. Savings clause. If any provision of this § 190-10.5 is found to be unenforceable, such provision shall be considered separable and shall not be construed to invalidate the remainder of the section.

§ 190-10.6 Parkway Protection Overlay District.

A. Purposes. 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.

B. 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.50

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 that are deemed hazardous. No approval for a special exception under this § 190-10.6 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 that 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 that is nonconforming with respect to the protective PPO District restrictions shall not be entitled to the same rights as are established in § 190-5.1.

Article 11. Administration and Enforcement

§ 190-11.1 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.

(4) For trees removed in violation of this chapter, the violation and fine shall continue daily, with each day a separate violation until trees are replaced with equivalent trees.

§ 190-11.2 Zoning Board of Adjustment (ZBA)

There shall be a five-person ZBA and one or more alternates appointed by the Board of Selectmen, as provided by state law, 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.

§ 190-11.3 Special exceptions.

(1) The ZBA shall hear and decide requests for special exceptions that are specifically authorized in Article 4, Use Regulations, or otherwise in this Ordinance.

(2) The ZBA may, in appropriate cases and subject to appropriate conditions and safeguards, grant a request for a special exception and make special exceptions to the terms of this chapter.

(3) The applicant bears the burden of presenting evidence sufficient to allow the ZBA to make findings required to support the granting of a special exception.

(4) In granting a Special Exception, the ZBA may attach reasonable conditions as it deems necessary to assure compliance with the purposes of this chapter.

(5) Special exceptions shall be valid if exercised within 2 years from the date of final approval, or as further provided by the ZBA for good cause, provided that no special exception shall expire within 6 months after the resolution of a planning application filed in reliance upon the special exception.

§ 190-11.4 Conditional use permits.

A. Wherever a conditional use is authorized in this chapter, the Planning Board shall have authority to administer or grant conditional use approval pursuant to RSA 674:21, II.

B. The purpose and intent of a conditional use permit is to provide flexibility to allow uses that are not permitted as a matter of right but are deemed beneficial or

desirable, provided specific conditions are met to mitigate potential impacts on public health, safety, and welfare. The intent is to balance community development needs with concerns for neighborhood compatibility, environmental protection, and infrastructure capacity, in order to support orderly development.

C. Conditional use approval is required to encourage particular activities and uses that advance the goals and policies of the Conway Master Plan, especially but not only in the Highway Commercial District.

D. No building, structure, or use requiring a conditional use permit under this chapter shall be used, constructed, altered, or expanded unless the required conditional use permit has been granted by the Planning Board.

E. A Conditional Use Permit may be granted only after application to, and a public hearing by, the Planning Board, subject to the provisions of RSA 674:16. The Planning Board may establish procedures and fees for conditional use applications consistent with RSA 674:16.

Article 12. Definitions

§ 190-12.1 General provisions.

In this chapter, the following terms and constructions shall apply unless a contrary meaning is required by the context or is specifically prescribed in the text of the section or subsection.

- Words used in the present tense include the future.
- The singular includes the plural, and the plural includes the singular.
- The word "shall" is mandatory and "may" is permissive or discretionary.
- The word "and" includes "or" unless the contrary is evident from the text. The word "includes" or "including" shall not limit a term to specified examples but is intended to extend its meaning to all other instances, circumstances, or items of like character or kind.
- The word "lot" includes "plot". The word "used" or "occupied" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied".
- The words "building," "structure," "lot," or "parcel," shall be construed as being followed by the words "or any portion thereof."
- The word "person" includes a firm, association, organization, partnership, company, or corporation, as well as an individual.
- Terms and words not defined herein but defined in the State Building Code shall have the meaning given therein unless a contrary intention is clearly evident in this chapter.

§ 190-12.2 Terms defined.

ADMINISTRATOR — A designated officer with the Town of Conway or, at the Town's discretion, its agent, which agent may be New Hampshire Housing, a local housing nonprofit, or such other third-party administrator as determined by the Town of Conway.

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 BUILDING OR USE — A building or use subordinate and customarily incidental to the main building or use on the same lot.

ADAPTIVE REUSE — The renovation and reuse of pre-existing structures for non-transient residential dwelling units in all or any portion of an eligible structure.

AFFORDABLE HOUSING – A dwelling unit that is subject to a long-term deed restriction

to preserve affordability for households with low or moderate incomes in accordance with this chapter.

Associated Definitions:

AFFORDABLE RENTAL UNIT — The monthly rent including utilities of an affordable rental unit shall be no greater than estimated maximum affordable monthly rent for Carroll County as most recently published by the New Hampshire Housing for 80% AMI.

AFFORDABLE UNIT FOR PURCHASE — The purchase price of an affordable unit shall be no greater than the estimated maximum affordable purchase price as most recently published by New Hampshire Housing for a household making 110% area median income as published by HUD.

ELIGIBLE BUYER — Is a household whose income does not exceed 110% of the area median income for a family of four in Carroll County as most recently published by the United States Department of Housing and Urban Development. The eligible buyer shall occupy the affordable unit as their primary residence and shall not own any other residential real estate.

ELIGIBLE RENTER — Is a household whose income does not exceed 80% of the area median income for their household size in Carroll County as most recently published by the United States Department of Housing and Urban Development. The eligible renter shall occupy the affordable unit as its primary residence and shall not own any other residential real estate.

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.

AQUIFER — A geologic formation composed of rock, sand, or gravel that contains significant amounts of potentially recoverable water.

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.

BASEMENT — Any area of a building having its floor subgrade on all sides.

BED-AND-BREAKFAST — Any owner-occupied dwelling in which the owner provides transient lodging or boarding and lodging to the public for compensation. There shall be no cooking facilities in any guest room. A bed-and-breakfast shall not constitute a hotel.

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 shall not include cooking facilities and shall not be occupied or used as dwelling units. Meals may or may not be provided by the owner/ operator. The rooms generally serve as the primary residence (of whatever duration) for the occupants but may also be available as lodging for visitors.

BOAT STORAGE SHED — A structure used exclusively for the storage of boats and accessory equipment, having no plumbing or heating installed, having a floor area of 250 square feet or less, and being no more than 15 feet in height.

BUFFER — The area between the property boundaries and the front, side, 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 or planted with native or indigenous saplings, shrubs, and ground covers, providing a scenic, largely forested 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. The buffer shall consist of a natural area with various species of trees, saplings, shrubs, and ground cover, in any combination and at any stage of growth.

BUILDING — An independent structure having a roof and any extensive additions. 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.

CASINO — A non-charitable facility whose principal use is for the conduct of games of chance or gambling.

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.

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.

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.

COLLECTOR — A street that is used or will be used primarily for connecting local street traffic to the arterial street system. These are Mill Street (Center Conway), Old Mill Road, Brownfield Road, Tasker Hill Road, Passaconaway Road, Still Road, East Conway Road, Dolloff Hill Road, Stark Road, Rockhouse Mountain Road and West Main Street.

COMMERCIAL AMUSEMENT FACILITY — Any commercial use which offers for hire or to the general public access to structures, vehicles, mechanical or electrical contrivances, or other facilities which are intended primarily to provide entertainment, amusement or recreation, and in which the patron is engaged on the premises as an active participant rather than as a spectator. This shall not include volleyball, tennis or basketball courts, baseball, football or soccer fields, other similar sporting fields, or commercial golf facilities as regulated in

the underlying district, or any facility conducting games of chance, and shall exclude special events as permitted by the Board of Selectmen.[51]

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.

CONDITIONAL USE PERMIT — A land use permit allowing departures from standards in accordance with RSA 674:21 and RSA 676:4 and shall be consistent with the provisions of the underlying district. A conditional use permit shall be issued by the Planning Board or Conservation Commission as specified within applicable sections of Chapter 190, Zoning, and may not establish a use specifically prohibited by this chapter.

CONDOMINIUM — A special system of real property ownership that includes individually owned units and areas owned in common by the unit owners ("common areas").

CREMATORIUM — An establishment or structure in which human remains are cremated in a cremation retort.

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.

DEVELOPMENT TRANSFER CREDIT — The increase in structural lot coverage afforded to a development, expressed in lot area, which is acquired through the payment of a development transfer fee.

DEVELOPMENT TRANSFER FEE — The fee paid to the Town in exchange for an increase in permitted structural lot coverage.

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.

DWELLING – A building designed and occupied as the living quarters of one or more families.

Associated Definitions:

ACCESSORY DWELLING UNIT (ADU) — means a residential living unit that is located on a lot containing a single-family dwelling that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation, on the same parcel of land as the principal dwelling unit it accompanies. Accessory dwelling units may be constructed at the same time as the principal dwelling unit. A dwelling unit accessory to a single-family dwelling or duplex, either attached or detached, ranging in size from not less than 300 square feet nor more 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.

DWELLING, MULTIFAMILY: A building containing three or more dwelling units.

DWELLING, SINGLE-FAMILY: A building containing one dwelling unit.

DWELLING, 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.

DWELLING, TWO-FAMILY or DUPLEX: A building containing two dwelling units.

DWELLING UNIT – One or more rooms, designed, occupied, or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

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 —

- The opening or commencement of any sexually oriented business as a new business;
- The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- The relocation of any sexually oriented business; or
- 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.

FLOODPLAIN — Floodplain or Flood-prone area means any land area susceptible to being inundated by water from any source (see definition of "Flooding" below).

Associated Terms: (*N.B.: the terms and definitions listed below apply specifically to the Floodplain Conservation Overlay (FCO) District. The same terms may appear elsewhere in this § 190-12 with different definitions that apply outside the FCO.*)

AREA OF SHALLOW FLOODING means a designated AO, AH, or V0 zone on the Flood Insurance Rate Map (FIRM) with a one-percent or greater annual possibility of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. This flooding is characterized by ponding or sheet-flow.

BASE FLOOD means the flood having a one percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE) means the elevation of surface water resulting from the “base flood.”

BASEMENT means any area of a building having its floor subgrade on all sides.

BUILDING - see "structure."

DEVELOPMENT means any man-made change to improved or unimproved

real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operation or storage of equipment or materials.

FEMA means the Federal Emergency Management Agency.

FLOOD or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

a. the overflow of inland or tidal waters, or

b. the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM) means the official map incorporated with this ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the (Insert Town/City Name).

FLOOD INSURANCE STUDY (FIS) means 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.

FLOOD OPENING means an opening in a foundation or enclosure wall that allows automatic entry and exit of floodwaters. See FEMA "Technical Bulletin 1, Openings in Foundation Walls and Walls of Enclosures."

FLOOD PROOFING means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

FLOODWAY means the channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

HIGHEST ADJACENT GRADE means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE means any structure that is:

- 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;

- Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- 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
- Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - by an approved state program as determined by the Secretary of the Interior, or
  - directly by the Secretary of the Interior in states without approved programs.

LOWEST FLOOR means 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 non-elevation design requirements of this ordinance.

MANUFACTURED HOME means, for floodplain management purposes, manufactured housing as defined in this chapter, as well as park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.

RECREATIONAL VEHICLE is defined as:

- Built on a single chassis;
- 400 square feet or less when measured at the largest horizontal projection;
- Designed to be self-propelled or permanently towable by a light-duty truck; and
- Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

SPECIAL FLOOD HAZARD AREA is the land in the floodplain within the Town of Conway subject to a one-percent or greater possibility of flooding in any given year. The area is designated as (Insert the community's applicable zone(s): Zone(s) A, AO, A1-30, and AE).

START OF CONSTRUCTION includes substantial improvements, and means the date the building permit was issued, provided 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.

STRUCTURE means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

VIOLATION means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

WATER SURFACE ELEVATION means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains.

FOOTPRINT — The portion of a lot covered by all portions of any structure, including decks, porches, cantilevered sections and roof overhangs.

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 wastewater treatment.)

FUNERAL HOME — An establishment with facilities for burial or cremation preparation of the deceased and for memorial services.

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.

GAME OF CHANCE — Any game involving gambling as defined by RSA 647:2, II, 17 or any 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.

GAS STATION — That portion of a property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and distributed for the purposes of retail sale of gasoline.

GREAT POND — A water body of more than 10 acres in the natural condition.

GROUNDWATER — Subsurface water that occurs beneath the water table in soils and geologic formations.

HAZARDOUS MATERIALS — Those chemicals or substances that 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.

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.

- Neighborhood.
  - General: those in the immediate vicinity of a development site, i.e., abutters.
  - As it relates to aircraft activities: area within a five-thousand-foot radius of the development site.
- 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.
- 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.
- Private/Public commercial use: available for use in aircraft operations for profit; those which, for a fee, provide air transportation for the public 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:

- 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;
- Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- 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
- Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - By an approved state program as determined by the Secretary of the Interior; or
  - 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.

HOTEL — A building or groups of buildings used for transient occupancy offered to the public at a daily or weekly rate with sleeping accommodations for greater than 16 persons. Facilities may include, where allowed, accessory uses such as restaurants, bars, taverns, function rooms, places of assembly or recreational facilities, but shall not include charitable gaming. A Hotel is distinguished from a motel by providing room accommodations that primarily open to interior corridors or exceed two stories in structure height.

IMPERVIOUS — Not readily permitting the infiltration of water.

IMPERVIOUS SURFACE — A surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or holes are present. Earthen, wooden, or gravel surfaces, or other surfaces which could react with or dissolve when in contact with the substances stored on them are not considered impervious surfaces.

INFILL DEVELOPMENT — Use of land in established commercial areas for the purpose of redevelopment. Parcels must have frontage on a collector, local, or private road and abut one or more commercial use(s). Infill development encourages the redevelopment of large commercial parcels and allows for the use of shared parking and infrastructure.

INTERMEDIATE BUSINESS — Any business with between 30,000 square feet and 1,500 square feet of gross floor area.

JUNKYARD — An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automotive recycling yard. The word does not include any motor vehicle dealers registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126.

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.

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 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
Stopped Delay per Vehicle
Level of Service (seconds)
A Less than or equal to 5
B 5.1 to 15
C 15.1 to 25
D 25.1 to 40
E 40.1 to 60
F Greater than 60

LIGHT INDUSTRY — The assembly, manufacture, processing, packaging or other industrial operations conducted in such a manner that all resulting cinders, dust, fumes, gas, odors, smoke and vapor are effectively confined to the premises or disposed of so as to avoid any air, ground or water pollution and conducted in such a manner that noise, light and vibrations will not be a nuisance or otherwise detrimental to abutting properties; a use involving the manufacture of a product not requiring heavy, noisy, or otherwise objectionable machinery or transporting equipment.

LOCAL/NEIGHBORHOOD STREETS AND ROADS — A street used primarily for direct access to property and not used for through-traffic flow. These streets are all those not designated as arterial or collector.

LOT — An area of land in one ownership, or one leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by the Planning Board and recorded in the Carroll County Registry of Deeds.

LOT COVERAGE — The total area of all building or structure footprints on a lot divided by the parcel's buildable area, expressed as a percentage. Retaining walls, fences, driveways, refuses areas, mechanical equipment, parking areas, driveways, and sidewalks may be excluded,

LOT, MINIMUM SIZE — The required lot area within a specific zoning district for a single use.

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,[52] 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. As defined in this chapter, manufactured housing does not include pre-site-built housing as defined in RSA 674:31-a.

MIXED-USE DEVELOPMENT — Development which combines residential and commercial uses on a single parcel and may include residential buildings with ground-floor retail space, office buildings with apartments on upper floors, or developments with a mix of residential buildings and commercial uses. Mixed-use developments are intended to create a range of housing options and allow for more compact and efficient development patterns.

MANUFACTURED HOUSING 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 a charge is made for such accommodations.

MANUFACTURED HOME SPACE — An area in a manufactured housing park designed to accommodate one manufactured home stand and its related yards and other open space.

MANUFACTURED HOME STAND — An area in a manufactured home space upon which a manufactured home is to be stationed.

MODULAR HOUSING OR STRUCTURE (or PRE-SITE 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.

MOTEL — A building or groups of buildings not exceeding two-stories used for transient occupancy offered to the public at a daily or weekly rate with sleeping accommodations for greater than 16 persons. Permitted accessory uses shall not

include places of assembly exceeding 50 persons or charitable gaming facilities. Individual motel rooms may include cooking facilities.

MOVABLE SIGN — A sign capable of being readily moved or relocated, including portable signs mounted on a chassis and wheels, or supported by legs.

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.

NEW DEVELOPMENT — Any site development for other than agricultural or silvicultural practices, which increases the existing impervious coverage by greater than 10%.

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.

- 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.
- For Pequawket Pond, the normal high-water mark shall be 458 feet.
- For Dolloff Pond, the normal high-water mark shall be 550 feet.
- For Echo Lake, the normal high-water mark shall be 510 feet.
- For Puddin' Pond, the normal high-water mark shall be 537 feet.

- For Labrador Pond, the normal high-water mark shall be 550 feet.

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 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.

OUTDOOR STORAGE — Storage of materials where they are not protected from the elements by a roof, walls, and a floor with an impervious surface.

OWNER-OCCUPIED LODGING HOUSE OR OWNER-OCCUPIED BOARDINGHOUSE — Any place consisting of a room or group of rooms located on one premises where regular, non-transient-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 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 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.

PERSONAL SERVICES ESTABLISHMENT -- A business that provides services but not goods to individual customers or clients, such as hairdressers, shoe repair, or real estate.

PETROLEUM BULK PLANT OR TERMINAL — The portion of the property where petroleum products are received by tank vessel, pipeline, tank car, or tank

vehicle and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline, tank car, tank vehicle, portable tank, or container.

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.

PRIVATE EDUCATIONAL FACILITY — A non-government owned and operated facility used for purposes of teaching, studying, and learning.

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.

PUBLIC WATER SYSTEM — A system for the provision to the public of piped water for human consumption if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

RATED NAMEPLATE CAPACITY — Maximum rated alternating current ("AC") output of solar collection system based on the design output of the solar system.

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.

REDEVELOPMENT — Any site development on previously disturbed land for other than agricultural or silvicultural practices, which increases predevelopment impervious coverage by no greater than 10%.

REGULATED SUBSTANCE — Petroleum, petroleum products, regulated contaminants for which an ambient groundwater quality standard has been established under RSA 485-C:6, and substances listed under 40 CFR 302, 7-1-05 edition, excluding substances used in the treatment of drinking water or wastewater at department-approved facilities.

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.

SANITARY PROTECTIVE RADIUS — The area around a public water supply well which must be maintained in its natural state as required by Env-Dw 301 or 302 (for community water systems); Env-Dw 405.14 and 406.12 (for other public water systems).

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 HIGH WATER TABLE — The depth from the mineral soil surface to the uppermost soil horizon that contains 2% or more distinct or prominent redoximorphic features that increase in percentage with increasing depth as determined by a licensed hydrogeologist, soils scientist, wetlands scientist, civil or environmental engineer, or other qualified professional approved by the Planning Board, or the shallowest depth measured from ground surface to free water that stands in an unlined or screened borehole for at least seven consecutive days.

SEASONAL STREAMS — A free-flowing body of water (i.e., a river, brook or tributary) which only runs for a part of the year.

SECONDARY CONTAINMENT — A structure such as a berm or dike with an impervious surface which is adequate to hold at least 110% of the volume of the largest regulated-substances container that will be stored there.

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

SENIOR HOUSING UNIT — A dwelling, or portion thereof, capable of providing living quarters limited to two adults per unit, having a minimum age of 62 years old. Said dwelling unit(s) must be within a single building having at least 25 separate

units under the same roof. Said building must provide for a commercial kitchen and common dining facility as a minimum. Said senior housing units shall be exempt from provisions under the existing definition of "residential unit," which is defined as a unit providing a kitchen. Senior housing units within such an aforementioned age-restricted retirement housing complex shall be allowed to have separate individual kitchens. For density purposes, the overall building housing all said individual dwelling units within said building under the same roof will be considered one unit.

SEPTIC SYSTEM — Any subsurface method of disposing of residential or commercial wastewater.

SETBACK — The minimum distance which buildings and structure are required to be set back from the nearest lot line (rear or side), measured at right angles or radial thereto. Setbacks from a road shall be measured from the nearest edge of the right-of-way of such road in the same manner. Where the edge of the road right-of-way is not shown on a recorded plan, then such edge shall be deemed to be located 30 feet from the center of the traveled portion of said road unless the right-of-way of such road can be shown to be wider than 60 feet. A road shall include either a public or a private right-of-way.

SEXUALLY ORIENTED BUSINESS — Any place of business in which any of the following activities are conducted:

ADULT BOOKSTORE OR ADULT VIDEO STORE —

- 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:
    - 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" or "sexual conduct" as set forth in RSA 571-B:1; or
    - 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.
- 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.

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.

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" or "sexual conduct" as set forth in RSA 571-B:1.

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" or "sexual conduct" as set forth in RSA 571-B:1.

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" or "sexual conduct" as set forth in RSA 571-B:1, 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" or "sexual conduct" as set forth in RSA 571-B:1.

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" 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.

SEXUAL ENCOUNTER CENTER — A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- Activities between male and female persons or persons of the same sex when one or more persons is in the state of nudity; and
- 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" 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.

Associated Definitions:

APPENDAGE — A sign which is attached directly to or under a freestanding or projecting sign.

CHANGEABLE COPY — A sign, or portion thereof, with manually

changeable lettering or display. This shall not include electronic-type displays with changeable messages.

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.**)

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. The term shall not include feather flags as defined elsewhere in Article 12.

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.

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.

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.

SIGN HEIGHT — The measurement from the undisturbed ground directly under the sign to the top of the message area.

SIGN MAINTENANCE — Repainting; other surface renewal; change of message on the same surface; replacement of any sign surface, support framework or component with substantially similar construction material or component.

SIGN MESSAGE AREA — The total area used to display a sign's message, including all lettering, designs, symbols, and logos, together with but not including any support framework or bracing which is incidental to the sign and which is not designed to attract attention. Where the message area consists of letters, symbols, logos or devices affixed to the surface of a wall, building, awning or window, the message area shall be measured by a single, continuous, rectangular perimeter drawn to enclose the extreme limits of the sign elements. The message area of one side of a double-faced sign shall

be regarded as the total message area of the sign. For double-faced signs, each face must be attached directly to the other. Window signs less than one foot apart are measured as a single sign; otherwise, the sum of the rectangles of window signage constitutes a window's sign message area.[1]

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.

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.

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.

SNOW DUMP — For the purposes of this ordinance, a location where snow, which is cleared from roadways or motor vehicle parking areas, is placed for disposal.

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 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.

Associated Definitions:

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.

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

[1] Graphic temporarily removed. I suggest putting it to the Signs section, not the definitions.

active tracking racking systems.

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.

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.

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

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.

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.

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.

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.

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.

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.

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 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.

STRATIFIED-DRIFT AUQIFER — A geologic formation of predominantly well-sorted sediment deposited by or in bodies of glacial meltwater, including gravel, sand, silt, or clay, which contains sufficient saturated permeable material to yield significant quantities of water to wells.

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

STRUCTURE — Anything constructed or erected, on or in the ground or in the water, or an attachment to something having a fixed location on the ground, including buildings, permanent or temporary; signs; carports; porches; and other building

features, including stacks and antennas, but not including sidewalks; fences; driveways; septic systems; utility poles; boundary markers and field or garden walls or embankment retaining walls. For floodplain management purposes, a gas or liquid storage tank that is principally above ground is a structure.

STRUCTURE HEIGHT — The vertical distance from the lowest point of grade at the base of the structure to the highest point of the structure. The lowest point of grade shall be the lowest point at which the foundation is above the proposed or existing grade, whichever is less.

SUBSTANTIAL DAMAGE — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its condition before the damage occurred would be equal to or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT —

- 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:
  - The appraised value prior to the start of the initial repair or improvement; or
  - The value of the structure prior to the damage occurring.
- 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.

SURFACE WATER — Streams, lakes, ponds, and tidal waters, including marshes, watercourses, and other bodies of water, natural or artificial.

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

TENT — Any structure with fabric or nonrigid walls or roof or both, which provides or is intended to provide temporary shelter.

THREE-DIMENSIONAL ENVELOPE — The volume and shape enclosed by the exterior dimensions of a building or other structure in plan and elevation views (length, width, height). All appurtenant structures, including but not limited to decks, greenhouses and bay windows, shall be included in the three-dimensional envelope. Any increase in volume or change in the shape shall be considered expansion.

TRADESMAN — A workman in a skilled trade, such as a carpenter, plumber, electrician, carpet layer, shoe repairman, furniture restorer or cabinetmaker.

TRANSIENT ACCOMMODATIONS — Living quarters which do not have a kitchen as defined in "residential unit." The accommodations are not counted as residential units for density purposes, but rather are part of, or all of, a nonresidential use on the lot.

TRAVEL TRAILER — A vehicular portable structure, which may legally be moved on its own wheels, being a vehicle designed as a temporary dwelling for travel, recreation or vacation use.

TWO-DIMENSIONAL FOOTPRINT — The area and shape defined by the exterior dimensions of a building or other structure in plan view. All appurtenant structures, including but not limited to decks, greenhouses and bay windows, shall be included in the two-dimensional footprint. Any increase in area or change in the shape shall be considered an expansion.

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.

VIEWSHED — The total landscape seen or potentially seen from any public right-of-way, use area, or water body. Impacts from new developments are assessed by structural elevation data provided to determine visual barriers imposed on a scenic landscape including but not limited to Mount Washington, the Moat Mountains, Cathedral Ledge, the Green Hills, Mount Chocorua, Mount Kearsarge, or other prominent landscape features.

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.

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.

WELLHEAD PROTECTION AREA — The surface and subsurface area surrounding a water well or wellfield supplying a community public water system, through which contaminants are reasonably likely to move toward and reach the water well or wellfield.

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)

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.

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.