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PREAMBLE:

This Zoning Ordinance by application of provisions of State statutes seeks to protect existing property owners against a new use nearby which may not only be incompatible or undesirable, but may also be damaging by lowering the desirability or value of such existing owners' present property. This Ordinance shall have no effect upon the continuance of any land use existing at the time of passage, even though such use is not in conformance with the land use set forth in this Ordinance. All residents may continue present uses.

ARTICLE I – PURPOSE:

The regulations as herein set forth are for the purpose of promoting the health, safety, and the general welfare of the community under the provisions of New Hampshire RSA 674:16, as amended.

ARTICLE II – EFFECTIVE DATE AND AMENDMENT:

This Ordinance shall take effect upon its passage, March 10, 1970, and may thereafter be amended by a majority vote of any legal town meeting in accordance with New Hampshire RSA 675:3, as amended.

ARTICLE III – DISTRICT REGULATIONS:

SECTION 1 – DEFINITIONS:

The following definitions shall apply to this Article III and all other Sections where applicable unless otherwise noted herein.

1. "One-Family Residential Structure" – A single structure which complies with all of the then applicable NH fire and building codes.
2. "Two-Family Residential Structure" – A single structure which complies with all of the then applicable NH fire and building codes.
3. "Multi-Family Residential Structure" – A single structure with three (3) or more Family Residential Units each with a limit of three (3) bedrooms which comply with all of the then applicable NH fire and buildings codes.
4. "Accessory Dwelling Unit" – An accessory dwelling unit means a residential living unit that is within or attached to a single-family dwelling and 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. As per RSA 644:71
5. "Bedroom" – As defined by the then applicable NH fire and building codes.
6. "Manufactured Housing" – As defined by the then applicable NH fire and building codes.
7. "Camper" – any recreational vehicle, motorized or not, capable of being registered and intended for short term use only.
8. "Mixed Use Structure" – A building which contains dwelling units located above the ground floor of an institutional, civic, office, commercial, or retail use.

9. "Farmer's Market" – A retail sales use operated by a government agency, non-profit agency, or one or more producers that primarily sells farm products and value-added farm products directly to consumers. Farmer's Markets can include indoor and outdoor display and sales.
10. "Senior Housing Units" – Independent-living Residential structures, whether detached or attached, without full-time nursing staff, specifically for households with at least one (1) resident fifty-five (55) years of age or older, each with a limit of two (2) bedrooms which comply with all of the then applicable NH fire and buildings codes.
11. "Workforce Housing" – means housing which is intended for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the county in which the housing is located as published annually by the United States Department of Housing and Urban Development. 'Workforce Housing' also means rental housing which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the county in which the housing is located as published annually by HUD. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, shall not constitute workforce housing as outlined in RSA 674:58-61.

SECTION 2 – PERMITTED USES:

The following land uses are hereby permitted for each District as indicated; however, upon appeal, the Board of Adjustment has the right of interpretation of the herein provisions for the purposes of compliance thereto. Any change in use for any use provided for herein shall require a Change-In-Use Permit to be issued by the Board of Selectmen.

Residential A District:

A lot may be used for:

1. One-Family Residential Structure(s);
2. Manufactured Housing;
3. Bed & Breakfast(s);
4. Guest House(s);
5. Home Occupation(s);
6. General Farming;
7. Timber Harvesting;
8. Planned Developments; and
9. Cluster Development.

Residential B District:

A lot may be used for any use permitted in Residential A District (with the exception of Manufactured Housing), and also for

1. Two-Family Residential Structures;
2. Multi-Family Residential Structures;
3. Senior Housing Unit(s);

4. Workforce Housing Unit(s);
5. School(s);
6. Institution(s);
7. Medical and other Professional offices;
8. Fine Art studios;
9. Barber shops and Beauty parlors;
10. Childcare facilities;
11. Insurance and real estate offices;
12. Motel(s) with accessory facilities that provide for dining and recreation;
13. Hotel(s) with accessory facilities that provide for dining and recreation; and
14. Restaurant(s).

Business B District:

A lot may be used for any use permitted in Residential B District, and also for:

1. Retail store;
2. Professional office;
3. Home Occupation; and
4. Other business use.

There shall be no further subdivision in this District.

Business A District:

A lot may be used for any use permitted in Business B District, and also for:

1. Wholesale and light industrial; and
2. Garage and filling station.

In each case, business operation and appearance shall be compatible with and not offensive or injurious or a nuisance to its neighborhood in terms of building scale and residential character.

SECTION 3 – DENSITY REQUIREMENTS FOR ALL PERMITTED USES:

Notwithstanding the following provisions of this Section 3, one (1) One-Family Residential Structure shall be permitted on any vacant existing lot, which was subdivided and recorded prior to March 10, 1987, provided the setbacks for all structures are at least 50 feet from any right-of-way centerline and 20 feet from any side or rear lot line.

- A. Any lot subdivided on or after March 10, 1987, for separate sale, use, ownership, development, or resale shall:
 - i. Have no less than the prescribed street frontage and minimum lot size for the District in which it is located as shown in the following chart;
 - ii. Conform to the density requirements shown in the following chart; and
 - iii. Have a setback for all structures of at least 50 feet from any right-of-way centerline and 20 feet from any side or rear lot line.
- B. Any lot, whenever subdivided, with an existing structure to which additions and/or renovations are to be made to increase the number of One-Family Residential Structures must conform to the density requirements set forth in the chart below.

- C. A One-Family Residential Structure must conform to the minimum acreage required for the District in which each is located.
- D. If soil or slope conditions will, in the opinion of the Planning Board, adversely affect the runoff, erosion, or operation of on-site sewage disposal facilities, then greater than the District minimum acreage may be required.
- E. All single family lots shall have sufficient parking space to accommodate at least two (2) full size vehicles off the street.

District	Residential A	Residential B	Business A Dwelling	Business A Non-Dwelling	Business B Dwelling & Non-Dwelling
Minimum lot size	5 acres	3 acres	1 acre	½ acre	2 acres
Maximum building size coverage on minimum lot size	10%	10%	10%	30%	10%
Minimum lot frontage	200 ft.	150 ft.	80 ft.	80 ft.	150 ft.

SECTION 4 – APPLICABILITY OF SITE PLAN REVIEW REGULATIONS:

Each Multi-Family Residential Structure, whether it is new construction or a conversion as provided for hereinafter, and any commercial structure, shall be subject to Site Plan Review Regulations.

All costs associated with any consultant(s) the Board may hire to assist in its review shall be the responsibility of the developer.

SECTION 5 – MULTI-FAMILY RESIDENTIAL STRUCTURE:

All new construction of Multi-Family Residential Structures:

- A. The maximum number of Family Residential Units built shall conform to the minimum acreage required for each Unit in the District in which it is to be located.
- B. There shall be at least 40 feet between all Multi-Family Residential Structures within the parcel.
- C. Multi-Family Residential Units built under a provision of the Village Mixed Use Overlay District shall conform to the minimum acreage required in the District in which it is to be located, with an additional one (1) acre of land required for each unit over one (1) provided in the structure up to eight (8) units. The total number of Residential Units shall not exceed twenty (20).

SECTION 6 – OWNERSHIP OF MULTI-FAMILY RESIDENTIAL STRUCTURES:

The ownership of Multi-Family Residential Structures may be subdivided, sold, used, and resold only when such subdivided ownership of a Family Residential Unit also includes proportional, undivided, ownership interest sufficient common land areas so that the total of all such individual and common interests would meet all zoning requirements herein. Any such change of ownership shall be considered a subdivision, and all provisions applicable thereto shall apply.

SECTION 7 – RESIDENTIAL CONVERSIONS:

Structures existing at the time of adoption of this ordinance may be converted to a Multi-Family Residential Structure in Residential B, Business A, and Business B districts, provided parking can be provided according to Article IV, Section 5, hereinafter, and if all other conditions of the Site Plan Review are satisfied. These lots do not have to meet the minimum lot size requirements but requirements for water supply, septic disposal systems, fire protection, and safety must be met. The altering or changing of the footprint of the existing structure shall not be allowed except for required health and safety reasons. The number of units per dwelling shall not exceed four (4).

SECTION 8 – FAMILY RESIDENTIAL UNIT SIZE:

Each Two-Family and Multi-Family Residential Structure and each Family Resident Unit, whether new construction or conversion, shall provide at least 600 square feet of total floor area plus 120 additional square feet for each bedroom more than one, excluding screened porches, breezeways, garages, and unfinished basement areas.

SECTION 9 – BED AND BREAKFAST:

A "Bed & Breakfast" shall consist of one (1) building with a limit of eight (8) "bedrooms," and shall allow only short-term guests. The NH rooms & meals taxes shall apply.

SECTION 10 – HOME OCCUPATIONS:

Any Home Occupation shall be permitted as an accessory use in the District where allowed and shall be subject to a Site Plan Review and the following restrictions.

- A. The Home Occupation is clearly an accessory use to the residential use of the property and incidental to the primary use of the property as a dwelling.
- B. The Home Occupation is carried on by a family member and his or her relatives are currently residing in the residence. The Home Occupation may be supplemented by not more than two (2) outside employees.
- C. The Home Occupation shall be carried on only within the principal or accessory structure, and there shall be no obviously commercial interruption of the residential appearance of the area and neighborhood.
- D. Not more than twenty-five (25) percent of the combined floor area of the dwelling house and accessory buildings shall be devoted to such Home Occupation.
- E. A Home Occupation shall be allowed one (1) sign, which shall not exceed six (6) square feet in visible area. The sign shall be flat in nature and shall require a sign permit as provided for hereinafter.
- F. No installation or use of any mechanical or electrical equipment that is not customarily incidental to the practice to the Home Occupation or not normally part of a domestic household shall be permitted, with the exception of medical and dental equipment. In addition, machinery, which is abusive to the residential atmosphere or that causes interference in radio, television, cellular phone or internet reception, shall not be permitted.
- G. The Home Occupation shall not display or create outside the buildings any external evidence of the operation of the Home Occupation, except for the permitted sign. Parking visible to passersby from the street or road or by

abutters shall be limited to four (4) vehicles, including those of the dwelling occupants in Residential A and Residential B Districts. No parking shall be permitted on the street or road.

- H. Only articles made on the premises or customarily incidental to the Home Occupation shall be sold on the premises.

SECTION 11 – TIMBER PROCESSING:

Timber removal permitted in Residential A District may be expanded to "timber processing" by application for an exception to the Zoning Board of Adjustment which may permit such processing to an extent and under such conditions as are deemed appropriate to the neighborhood, and as may be subject to successive one-year permits issued by the Board of Selectmen.

SECTION 12 – HOTELS AND MOTELS:

All Hotels and Motels shall observe the following requirements:

- A. Have a minimum lot size of five (5) acres, excluding poorly drained, very poorly drained, and floodplain soils and slopes over twenty-five (25) percent, with adequate area for sewage disposal and shall meet all site plan review requirements and conditions; and
- B. Be limited to ten (10) double-occupancy "conventional sleeping units," per acre, defined as rooms having no cooking facilities and shall comply with all then applicable state regulations.
- C. Any hotel or motel that includes a "nonconventional sleeping unit," defined as having a room with cooking facilities, shall be considered a Multi-Family Residential Structure and, accordingly, must comply with the applicable provisions herein therefore.

SECTION 13 – ACCESSORY DWELLING UNITS:

As a special exception, the Zoning Board of Adjustment may permit an accessory dwelling unit (ADU) to a One-Family Residential Structure in any district either as a conversion or new construction.

The purpose of this section is to increase and integrate the supply of affordable housing without the need for further land development and, with minimal negative impact on the community. This section increases flexible housing options for residents, and provides elderly citizens with the opportunity to retain their homes and age in place.

Pursuant to RSA 674:21, the Zoning Board of Adjustment is hereby authorized to grant by Special Exception accessory dwelling units in accordance with the restrictions and requirements of this section. The Zoning Board of Adjustment shall grant the special exception only when the following conditions are met:

- A. A maximum of one (1) accessory dwelling unit may be permitted on property located in all zoning districts that allow Single-Family Dwellings and must be attached or within the principal single-family dwelling unit.

- B. An interior door shall be provided between the principal dwelling unit and the accessory dwelling unit.
- C. All municipal regulations applicable to single-family dwellings shall also apply to accessory dwelling units, including but not limited to, lot and building dimensional requirements. A minimum of two parking spaces shall be provided for the accessory dwelling unit.
- D. The applicant for a conditional use permit shall demonstrate adequate provisions for water supply and sewage disposal for the accessory and primary dwelling units in accordance with RSA 485-A:38. Water and wastewater systems for the units may be combined or separate.
- E. Either the principal dwelling unit or the accessory dwelling unit must be owner occupied. The owner must demonstrate that one of the units is their principal place of residence. Both the primary dwelling unit and the accessory dwelling unit must remain in common ownership. Transfer of either dwelling unit to condominium ownership is not permitted.
- F. Accessory dwelling units shall maintain an aesthetic continuity with the principal unit as a single-family dwelling.
- G. An accessory dwelling unit size shall be no larger than one-third (1/3) the size of the square footage of living space in the principal dwelling unit. An accessory dwelling unit may not be restricted to less than 750 square feet in size.
- H. The accessory dwelling unit shall have no more than two (2) bedrooms.

SECTION 14 – HEIGHT RESTRICTION:

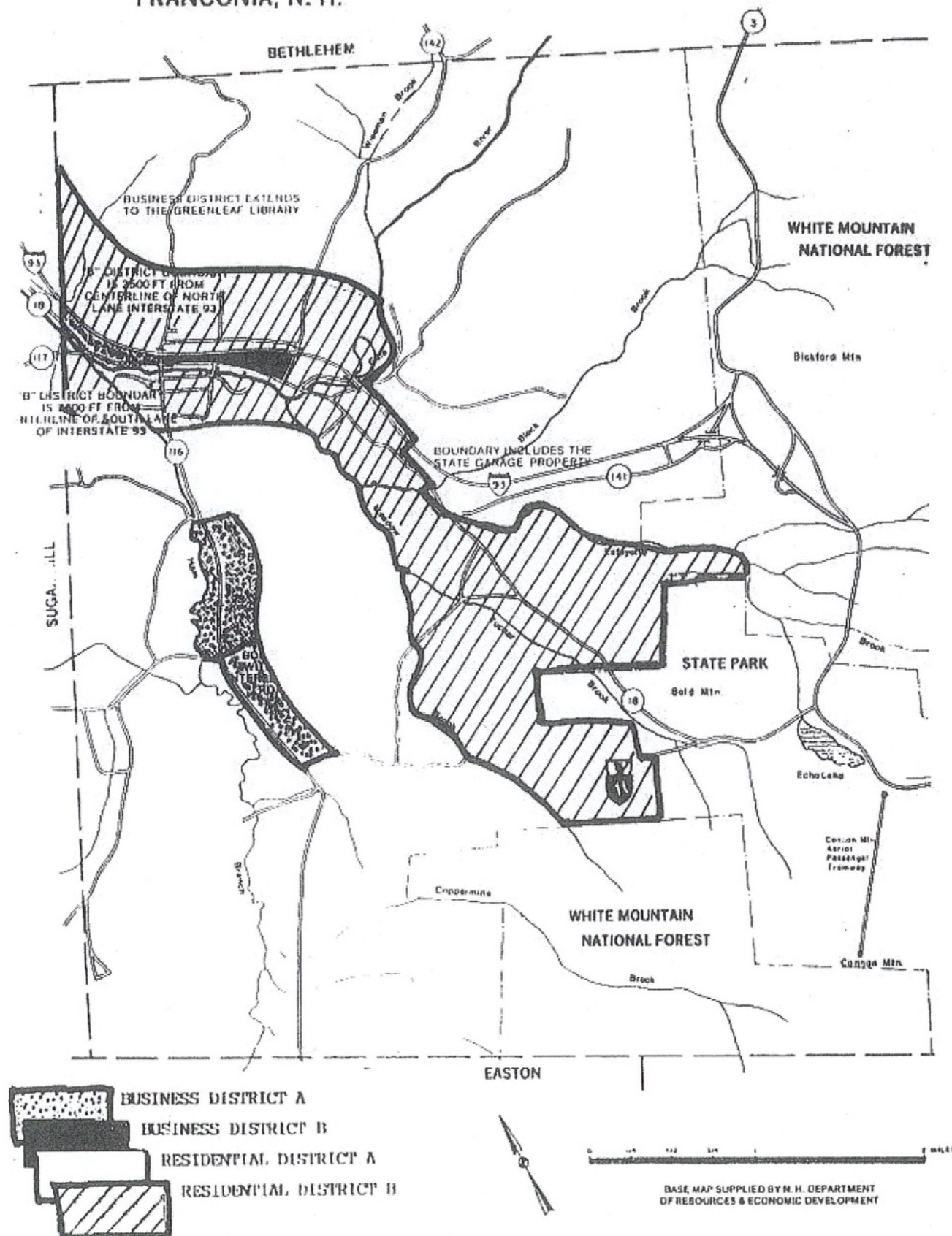
All buildings and/or structures are restricted to a maximum height of 35 feet above the average original ground level.

ARTICLE IV – GENERAL PROVISIONS:

SECTION 1 – ZONING MAP:

There shall be a zoning map originally dated March, 1970* that is available and on display, which clearly sets forth the exact location of the boundaries of the authorized zoning districts. (*Updated March, 1988)

ZONING MAP FRANCONIA, N. H.



SECTION 2 – NON-CONFORMING USES:

Any land use to the extent existing at the time of passage of this ordinance, but not conforming thereto, shall have the privilege of continuing in such use indefinitely or of recontinuing in such use within two years of any discontinuance.

SECTION 3 – LAND SUBDIVISION:

To insure that any proposed new land subdivision will result in desirable, safe, and sanitary lot layouts compatible to adjoining land, and that streets, utilities, drainage, and public utilities shall meet Town requirements, and in order to protect the future residents of said subdivision, no land may be subdivided or developed for separate use and ownership without each lot having the prescribed street frontage for that zone along an existing street or way. In the event an owner of land desires to subdivide or develop, or sell for development, certain interior land without such street frontage, the owner or developer shall first 1) construct a street according to Town approved layout and specifications and maintain such street; or 2) construct a street according to Town approved layout and specifications and dedicate such street to the Town; or 3) dedicate a street or land area to the Town and authorize the Town to construct or contract for the construction of such street according to Town approved layout and specification, and prepay the Town all costs to construct such street and utilities. In either 2 or 3, the Town reserves the right to decide when the public interest will be best served by accepting the dedication of any such street. The general lot size and density of development shall conform to existing Zoning Ordinance requirements, and shall allow adequate provision for current or future town water, storm drainage and sanitary sewage disposal and any other public utilities. The specifications for construction of streets and utilities shall provide for a size and quality to require minimum subsequent Town maintenance expense and be of appropriate size, specification and measurement to service the area as then proposed and as likely to develop in the reasonable future.

SECTION 4 – REMOVAL OR DUMPING:

No land shall be used for soil removal or general dumping or junk disposal or storage without first securing a one-year permit for such operation, providing a performance bond or pledge that the land so used shall be restored to a natural surface condition, graded and seeded, as per RSA 155E (see appendix).

SECTION 5 – PARKING:

All buildings and developments shall be served by off-street parking facilities at the rate of not less than two spaces per dwelling unit and one space per hotel or motel room. Parking shall also be as stated in other sections of this ordinance or the subdivision or site plan review regulations. The actual construction of parking spaces shall not be required unless warranted, so long as sufficient area to comply with the various parking regulations is dedicated and set aside for parking. The actual number required is to be determined by the Planning Board at the time of site plan review.

SECTION 6 – SANITARY SEWAGE:

No sanitary sewage shall be permitted to run free above ground or to be discharged in a way to be obnoxious or detrimental to the health of others. All new construction shall be

served by a subsurface sewage disposal system constructed in accordance with the current standards of the New Hampshire Department of Environmental Services.

SECTION 7 – NUISANCE:

Any use of property that unreasonably detracts from the health, safety, peace, and enjoyment of the neighborhood and community, so as to constitute a public nuisance is hereby prohibited.

Campers may not be used or remain as the only structural dwelling on a lot for longer than six (6) months annually.

SECTION 8 – FIRE RUINS OR VACANT DILAPIDATION:

No owner shall permit the continuance of fire or other ruins or vacant structures in dilapidated condition for more than one year but shall repair, remove, or destroy the structure and regrade the site to ground level so as not to constitute a public hazard.

SECTION 9 – SIGNS:

A. Permanent Signs:

1. A maximum of thirty (30) square feet per business of permanent exterior sign shall be permitted on the premises where a service or product is available. This may include one freestanding sign, one or two sided. Outside dimensions of the freestanding sign, including supports, shall control. The height of any sign shall not exceed twelve (12) feet above grade. No sign will be permitted that has interior or neon lighting. Lighting must be continuous (non-flashing), white, and directed at the sign and placed in such a way that it will not be a highway hazard. The only off premise signs allowed will be a limited number of state-approved directional signs at highway intersections.
2. Businesses, which are accessory to an inn, hotel, or motel, may have one (1) exterior sign of not more than six (6) square feet.
3. State and/or national flags are not to be considered signs.
4. All signs must meet state requirements.

B. Temporary signs:

1. Special events shall be limited to one (1) on premise sign of twelve (12) square feet and three (3) directional signs of three (3) square feet each. The signs are to be allowed only two (2) weeks prior to the event.
2. Conventional temporary signs for renting or the sale of real estate shall be permitted. Sign area shall not exceed six (6) square feet and shall meet all other requirements of Section V, 8A. Such signs shall be removed after completion of transaction. In a development the Selectmen shall consider allowing signs up to thirty (30) square feet subject to annual renewal on June 1st of each year.
3. Temporary construction signs may be erected or posted on the site of any

construction project once work has begun. Each sign may be no larger than six (6) square feet and shall be removed promptly upon completion of work by the individual contractor.

4. Temporary political signs shall be permitted during the political campaigns, but such signs shall be removed as required by NH law.
5. All temporary signs referred to above must be removed within two (2) days of the completion of project or event, otherwise it will be removed by the authority of the Selectmen.

C. All signs, permanent or temporary shall require a permit to be issued by the Selectmen except the following:

1. Real Estate for sale or rent
2. Construction
3. Political
4. Yard Sale
5. Special events for educational, charitable, or non-profit purposes

ARTICLE V – ADDITIONAL PROVISIONS:

SECTION 1 – FLOOD HAZARD CONSERVATION DISTRICT:

SECTION 1a - PURPOSE AND INTENT: The Purpose of this district is to promote and protect the health, safety, and general welfare of the Town by providing reasonable regulations governing development and use of floodplain.

Certain areas of the Town of Franconia, New Hampshire are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the Town of Franconia, New Hampshire has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirement of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as detailed in this Floodplain Management Ordinance.

If any provision of this ordinance differs or appears to conflict with any provision of other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

SECTION 1b - DISTRICT BOUNDARIES: The Floodplain Conservation District is determined to be those areas identified as special flood hazard areas on the Flood Insurance Rate Map dated May 15, 1991, Town of Franconia, issued by the Federal Emergency Management Agency.

SECTION 1c - PERMITTED USES:

1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.

2. Residential accessory uses such as lawns, gardens, parking areas, and play areas.
3. Public works activities such as road crossings and utilities.

These uses shall be permitted within the Flood Hazard Conservation District to the extent that they are not prohibited by any other ordinance and provided they do not require structures, fill, or storage of materials or equipment. In addition, these uses shall not adversely affect the efficiency, or unduly restrict the capacity, of the channels or floodways, raise the level of flood waters, or reduce the pooling areas of the flood plain. Any questions of adverse affect shall be determined by the Planning Board.

SECTION 1d - SPECIAL PROVISIONS:

1. There shall be no expansion of present non-conforming buildings or septic systems, except to correct malfunctions of septic systems. Where replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area the applicant shall provide the Board of Selectmen, or their agent, with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the system 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.
2. Existing non-conforming buildings within this district which are damaged (more than 50% of their market value) or destroyed, may be repaired or replaced within 180 days after such damage or destruction provided they comply with the minimum standards of the National Flood Insurance Program.
3. In riverine situations, prior to the alteration or relocation of a watercourse, the applicant for such authorization shall notify the Wetlands Board of the New Hampshire Environmental Services Department and submit copies of such notification to the Board of Selectmen, in addition to the copies required by RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Board.

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

SECTION 1e - DATA REQUIRED:

1. In special flood hazard areas, the Board of Selectmen or their agent shall determine the 100-year flood elevation in the following order of precedence according to the data available:
 - a. In zone AE, refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM or FHBM.

- b. In Zone A, the Board of Selectmen or their agent shall obtain, review, and reasonably utilize any 100-year flood elevation data available from any federal, state, or other source including data submitted for development proposals submitted to the community (i.e. subdivision, site approvals).
- 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 two feet.

SECTION 1f - VARIANCES AND APPEALS:

1. Any order, requirement, decision, or determination of the Board of Selectmen, or their agent, 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(b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:
 - a. That the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
 - b. That if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
 - c. That the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - d. That the variance will only permit uses which are in compliance with the minimum standards of the National Flood Insurance Program Regulations.
3. The Zoning Board of Adjustment shall notify the applicant in writing that: (i) the issuance of a variance may result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and (ii) construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.
4. The community shall (i) maintain a record of all variance actions, including their justification for their issuance, and (ii) report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

SECTION 1g – DEFINITIONS: The following definitions shall apply only to this Floodplain Management Ordinance, and shall not be affected by the provisions of any other ordinance of the Town of Franconia.

1. "Area of Special Flood Hazard" is the land in the floodplain within the Town of Franconia subject to a one-percent or greater possibility of flooding in any given year. The area is designated as Zone A on the FHBM and is designated on the FIRM as Zone(s) A & AE.

2. "Base Flood" means the flood having a one-percent possibility of being equaled or exceeded in any given year.
3. "Basement" means any area of a building having its floor subgrade on all sides.
4. "Building" – see "structure".
5. "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.
6. "FEMA" means the Federal Emergency Management Agency.
7. "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.
8. "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 Town of Franconia.
9. "Flood Insurance Study" means an examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination and determination of mudslide or flood-related erosion hazards.
10. "Floodplain" or "Flood-Prone Area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").
11. "Flood Proofing" means any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.
12. "Highest Adjacent Grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
13. "Historic Structure" means any structure that is:
 - a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - i. By an approved state program as determined by the Secretary of the Interior, or
 - ii. Directly by the Secretary of the Interior in states without approved programs.
14. "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 build so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
15. "Mean Sea Level" means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
16. "100-Year Flood" – see "base flood".
17. "Special Flood Hazard Area" – see "Area of Special Flood Hazard".
18. "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.
19. "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.
20. "Substantial Improvement" means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should equal:
- a. The appraised value prior to the start of the initial repair or improvement, or
 - b. In the case of damage, the value of the structure prior to the damage occurring.

For the purposes of this 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 which 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 a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

21. "Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44CFR § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), or (e)(5) is presumed to be in violation until such time as that documentation is provided.
22. "Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.

SECTION 2 - AIRPORT ZONING:

SECTION 2a: The business district shall extend south along the eastern side of Route 116 to the Wells Road, with the boundary to be 1000 feet from, and parallel to, the center line of Route 116. This business district shall allow for the inclusion of an airport.

SECTION 2b: An airport shall be any area of land, whether constructed or not, utilized as a site for the landing and taking off of aircraft, or utilized as a point of arrival or departure by air.

SECTION 2c: Aircraft shall be any machine supported for flight in the air by buoyancy or by the dynamic action of air on its surfaces.

SECTION 2d: The preparation of Airport-Approach Plans to be developed by the Aeronautics Commission as empowered by RSA 424:3 and 424:4. (See appendix.)

SECTION 2e: No use shall be permitted within the Airport-Approach district which involves the emission of steam, smoke, dust, glare, or other obstruction to visibility which would create an unsafe approach to the airport.

SECTION 2f: Until additional regulations regarding permits and variances are adopted, those outlined in RSA 424:6 shall apply.

SECTION 2g: The Board of Selectmen shall be designated as the agency for administering and enforcing the regulations outlined herein pursuant to RSA 424:7, II.

SECTION 2h: The Zoning Board of Adjustment shall be designated as the Board of Appeals pursuant to RSA 424:7, III.

SECTION 2i: Unless otherwise specified, those provisions as outlined in Chapter 424 of the New Hampshire Revised Statutes Annotated regarding Airport Zoning shall apply.

SECTION 3 – PLANNED DEVELOPMENTS:

The Town of Franconia desires to encourage a more efficient development of land, construction of buildings and infrastructure than is generally achieved through conventional development, by permitting Planned Developments. The Town of Franconia has approved and supports two approaches to Planned Developments.

- Planned Unit Development (Section 3a), and
- Cluster Development (Section 3b).

Any application submitted for a proposed Planned Development shall be in compliance with the guidelines as set forth in the applicable provisions of the Zoning Ordinance, Subdivision Regulations and/or Site Plan Review Regulations. Any minor deviation, inconsistency (or variation) from the aforesaid provisions and regulations are reserved to and may be permitted at the sole discretion of the Planning Board.

SECTION 3a: PLANNED UNIT DEVELOPMENT

PLANNED UNIT DEVELOPMENT OBJECTIVES

These Planned Unit Developments, also known as PUDs, are designed to promote:

1. A flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets, water, sewer, and utilities and to preserve the natural and scenic qualities of the open land in Franconia.
2. A development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation, and prevents the disruption of natural drainage pattern.
3. A more useful pattern of open space and recreation areas.
4. A development pattern in harmony with the land use density and transportation objectives of the planned development's comprehensive plan.
5. Reduction in costs of providing streets and utilities to the site.
6. Fits within the spirit of the Master Plan.

PROVISIONS GOVERNING PLANNED UNIT DEVELOPMENT

1. Planned developments will be permitted through the granting of a special use permit from the Franconia Planning Board acting in its role as the Special Use Permit Granting Authority (SUPGA), under RSA 674:21 II.
 - a. The minimum total area for a PUD is to be 15 acres for Residential A and 10 acres for Residential B zoning districts. All PUDs will be allowed in Residential A and B zoning districts of the Town, as long as minimum acreage requirements are met.

- b. Permitted uses may include and shall be limited to one-family residential structures; two-family residential structures; manufactured housing (limited to Residential A District); inns, hotels, motels, and accessory facilities that provide for dining and recreation such as tennis, golf, biking, and skiing. These developments will normally involve more than one building and/or one parcel and therefor will require preparation of a comprehensive plan for the entire land development.
2. The maximum density in a PUD shall be one residential structure per two and one-half (2.5) acres in Residential A zone or one and one-half (1.5) acres in Residential B zone. Density shall be calculated utilizing the entire parcel, less the primary open space and the 35% set aside of secondary open space, as defined below. However, in all cases density shall also meet the minimum area requirements based on soil lot size calculations within subdivision and site plan review regulations.
 - a. Primary Open Space is defined as land that includes wetlands, steep slopes over 25%, roadways, rivers, floodplains, external buffers, and walking trails. Primary open space shall not be included within the boundaries of designated lots.
 - b. Secondary Open Space is defined as land that includes the following: prime view easements, a 100-foot buffer zone from the edge of rivers, ponds, streams, and other wetlands, recreational purposes, tree stands, and other natural aesthetic features. Secondary open space shall not be included within the boundaries of designated lots.
3. The front lot line setback of all residential and commercial structures shall be at least 50 feet from any right-of-way centerline. The setbacks from side and rear lot lines shall be 20 feet, and there shall be at least a 40-foot separation between residential and/or commercial structures. In no case shall any structure be built closer than 20 feet from the property boundary of the subdivision. The Planning Board may reduce the required interior setback and frontage requirements at its discretion.
4. Planned Developments are subject to all applicable Subdivision and Site Plan Review Regulations.
5. Whenever there is a conflict or difference between the provisions of this article and those of any other article of this ordinance, the provisions of this article shall prevail for land developed under the Planned Unit Development. Subjects not covered by this article shall be governed by the respective provisions found elsewhere in this ordinance.
6. It shall be the responsibility of the developer to reimburse the Town for the cost of a review of the water supply and the waste water collection, treatment, and disposal systems, by a third-party engineer to be selected by the Town.

7. The PUD shall conform to existing zoning as applicable, and to further existing conditions and standards as outlined in the Subdivision and Site Plan Review Regulations of the Town of Franconia.

PLANNED UNIT DEVELOPMENT COMPREHENSIVE PLAN AND SPECIAL USE PERMIT PROCEDURES

1. Comprehensive Plan:

Along with an application for a special use permit, the applicant for a planned unit development shall submit a comprehensive plan for the entire parcel showing all current and future phases of development. The plan must include a narrative of purpose and objectives of the planned development and a site plan of sufficient detail to show the proposed development.

2. Review Procedure:

- a. The Planning Board shall review the proposed Planned Unit Development as the Special Use Permit Granting Authority (SUPGA) under the regulations of this article for a special use permit concurrently with Franconia's Subdivision Regulations and, if applicable, the Site Plan Review Regulations.
 - b. A special use permit shall be granted if the Planning Board determines that the intent of this article as well as the specific criteria of each applicable section is met. The granting of a special use permit implies approval of the submitted comprehensive plan for the Planned Unit Development.
3. The applicant, by appropriate reservation, grant of easement or covenant, shall set aside as non-buildable, a minimum of 35% of the total area of the land within the PUD, not including the primary open space and designated lot areas.
 4. The applicant is required to construct and maintain the Planned Unit Development in accordance with the approved comprehensive plan and granted special use permit.
 5. Any future changes to an approved comprehensive plan must be reviewed by the Planning Board and a new special use permit may need to be issued from the Planning Board.

SECTION 3b: CLUSTER DEVELOPMENT DEFINITION

CLUSTER DEVELOPMENT DEFINITION

Cluster Development is a variation of residential planning and development that permits housing units, within larger site developments, to be concentrated on lots with dimensions and acreage reduced from the current existing zoning requirements, in exchange for preserving larger tracts of common open space within the overall site.

PURPOSE OF CLUSTER DEVELOPMENT

1. Preserve larger tracts of contiguous open space.
2. Preserve and protect the natural and/or scenic character of a development site, as well as the Town's overall landscape.
3. Preserve and protect environmentally sensitive and/or valuable resources such as scenic vistas, stream banks, wetlands, aquifers, agricultural land, and so on.
4. Provide more creative flexibility in the residential planning and development of larger tracts of land within the Town.
5. Minimize the visual and physical impact of development by lot configuration, while preserving the natural character and aesthetics of the site.

CLUSTER DEVELOPMENT GUIDELINES BY ZONING CLASSIFICATION

The Town of Franconia has two major residential zoning classifications: Residential A District with a minimum of five (5) acre lot size and Residential B District with a minimum of three (3) acre lot size. Franconia has only limited municipal water available in the Residential B District areas and no municipal sewer available in either of the districts. These conditions drive the specific recommendations for each zoning classification.

1. Residential A District with *no* municipal water:

Cluster development approval would allow the existing minimum five (5) acre lot size requirement to be reduced to a minimum lot size of two (2) acres (to accommodate individual well and septic).

Cluster development approval would allow the existing minimum 200 feet of frontage requirement to be reduced to 160 feet.

2. Residential B District with *no* municipal water:

Cluster development approval would allow the existing minimum three (3) acre lot size requirement to be reduced to a minimum lot size of one and one-half (1.5) acres (to accommodate individual well and septic).

Cluster development approval would allow the existing minimum 150 feet of frontage requirement to be reduced to 105 feet.

3. Residential B District *with* municipal water:

Cluster development approval would allow the existing minimum three (3) acre lot size requirement to be reduced to a minimum lot size of one (1) acre (to accommodate individual septic).

Cluster development approval would allow the existing minimum 150 feet of frontage requirement to be reduced to 105 feet.

CLUSTER DEVELOPMENT REQUIREMENTS

For any proposed/approved cluster development the following requirement would apply regardless of the residential zoning classification:

1. Cluster development would only be applicable in Residential A and Residential B Districts.
2. Only One-Family Residential Structures shall be allowed in Cluster Development (with the exception of Senior Housing and Workforce Housing).
3. Minimum site area size to qualify for Cluster Development consideration is fifteen (15) acres in Residential A District and ten (10) acres in Residential B District.
4. The total number of cluster lots allowed would be based on the total site acreage divided by the zoned lot size, plus any bonus lots if applicable.
5. The minimum amount of "common open space" in any Cluster Development proposal should be at least 30% of the land and should be designed in the fewest and largest contiguous parcels as possible. This common open space should be prohibited from any future development by a permanent deed restriction and should be minimally disturbed during the tract development process. This open space should also be reasonably accessible to residents of the Cluster Development (or to the public, if the land is being deeded to the Town).
6. Roads are not counted as part of the 30% open space calculations nor as part of minimum lot sizes.

BONUS LOT ALLOCATION FOR APPROVED CLUSTER DEVELOPMENT

Development Site Size	Res. B with Municipal Water	Res. B. without Municipal Water	Res. A without Municipal Water
10 to 15 acres	1 Bonus Lot	0 Bonus Lots	N/A
>15 to 30 acres	2 Bonus Lots	1 Bonus Lot	1 Bonus Lot
>30 to 50 acres	3 Bonus Lots	2 Bonus Lots	2 Bonus Lots
>50 to 100 acres	4 Bonus Lots	3 Bonus Lots	3 Bonus Lots
Over 100 acres	5 Bonus Lots	4 Bonus Lots	4 Bonus Lots

SENIOR AND WORK FORCE HOUSING OPTION IN CLUSTER DEVELOPMENT

Designated Senior and Work Force Housing Option (SWFH) will be allowed in Residential B District with municipal water. Any application submitted for Senior and Work Force Housing Option (SWFH) shall comply with the statutory provisions as set forth in the New Hampshire Planning and Land Use Regulation.

The following guidelines will apply:

1. Minimum site area size to qualify for Senior Housing or Work Force Housing is five (5) acres.
2. Only Multi-Family Residential Structures with up to three (3) Family Units per one lot will be allowed for Senior Housing. For Work Force Housing, five (5) family units per one lot will be allowed, pursuant to RSA 674:58.
3. Senior and Work Force Housing shall not be eligible for bonus lots.
4. The maximum number of units for a Work Force Housing Development shall not exceed total number of acres of the development site. The total number of units in any Work Force Housing Development shall not exceed twenty (20).

SECTION 4 – AQUIFER CONSERVATION DISTRICT:

SECTION 4a – PURPOSE AND INTENT: Pursuant to RSA 674:16-21, the Town of Franconia adopts an Aquifer Protection District and accompanying regulations in order to protect, preserve, and maintain potential groundwater supplies and related groundwater recharge areas within a known aquifer identified by the Town. The objectives of the aquifer protection district are:

1. To protect the public health and general welfare of the citizens of the Town of Franconia;
2. To prevent development and land use practices that would contaminate or reduce the recharge of the identified aquifer;
3. To promote future growth and development of the Town, in accordance with the Master Plan, by insuring the future availability of public and private water supplies; and
4. To encourage use that can appropriately and safely be located in the aquifer recharge areas.

SECTION 4b– DISTRICT BOUNDARIES: The Aquifer Protection Overlay District is defined as those areas delineated as potential groundwater areas by the most current U.S.G.S. aquifer mapping.

SECTION 4c – AQUIFER DISTRICT INCORRECTLY DELINEATED: Where it is alleged that an area has been incorrectly delineated as an aquifer, or that an area not so designated meets the criteria for aquifer designation, the Planning Board shall determine whether the regulations contained herein apply.

The Planning Board shall make their judgment under this section only upon the determination by a qualified hydrogeologist(s) on the basis of additional on-site investigation or other suitable research that the information contained on the Aquifer Map is incorrect. This evidence shall be acceptable only when presented in written form by said hydrogeologist to the Planning Board. Any necessary test well(s) or other investigation shall be conducted at the expense of the landowner or the developer.

SECTION 4d - PROHIBITED USES: The following uses shall not be permitted in the Aquifer Protection Overlay District, except where permitted to continue as a nonconforming use:

1. Disposal of solid waste other than brush or stumps.
2. Subsurface storage of petroleum and other refined petroleum products except as regulated by the NH Water Supply and Pollution Control Commission (Ws 411 Control of Non-Residential Underground Storage and Handling of Oil and Petroleum Liquids). The placement of residential tanks underground for the storage of petroleum and other refined petroleum products shall not be allowed unless in conformance with the NH State guidelines as applicable to commercial uses.
3. Disposal of liquid or leachable wastes, except from single or multi-family residential subsurface disposal systems, or approved commercial or industrial systems which discharge human wastes only.
4. Industrial uses that discharge contact type process waters on site. Non-contact cooling water is permitted.
5. Outdoor unenclosed or uncovered storage of road salt.
6. Dumping of snow containing de-icing chemicals brought from outside the Aquifer Protection District.
7. Mining of land except incidental to a permitted use.
8. Excavation of sand or gravel, except where conducted in accordance with RSA 155-E, local regulations adopted pursuant thereto and in a manner that insures an eight-foot minimum depth to the seasonal high watertable.
9. All on-site handling, disposal, storage, processing or recycling of hazardous or toxic materials.
10. Automotive service and repair shops unless they are operated in accordance with NH State statutes, rules and regulations governing such use.
11. Junk and salvage yards.
12. Bulk storage of toxic material for resale or distribution.

SECTION 4e – PERMITTED USES: The following activities may be permitted provided they are conducted in accordance with the purposes and intent of this Ordinance:

1. Land development, per the Franconia Zoning Ordinance, except as prohibited in Section 14d.
2. Activities designed for conservation of soil, water, plants, and wildlife.
3. Outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted.

4. Normal operation and maintenance of existing water bodies, and dams, splash boards, and other water control, supply and conservation devices.
5. Foot, bicycle, and/or horse paths and bridges.
6. Maintenance, repair of any existing structure, provided there is no increase in impermeable surface above the limit established in Section 14f of this Article.
7. Farming, gardening, nursery, forestry, harvesting and grazing, provided that fertilizers, herbicides, pesticides, manure and other leachables are used appropriately at levels that will not cause groundwater contamination and are stored under shelter.

SECTION 4f – MAXIMUM LOT COVERAGE: Within the Aquifer Protection Overlay District, no more than 15% of any single-family residential lot may be rendered impervious to groundwater infiltration. No more than 30% of any multi-family, commercial or industrial lot may be rendered impervious.

SECTION 4g – SPECIAL PROVISIONS: No septic system leach field can be located within 125 feet of any individual water supply or 400 feet of any community or municipal water supply.

SECTION 4h – SPECIAL EXCEPTIONS: Special exceptions may be granted by the Board of Adjustment, after due public notice and public hearing, for exceeding the maximum lot coverage as stated in Section 4f or for not meeting the special provisions as stated in Section 4g. The Board of Adjustment may grant a special exception only after written findings of fact are made that all of the following are true:

1. The proposed use will not detrimentally affect the quality of the groundwater contained in the aquifer by directly contributing to pollution or by increasing the long-term susceptibility of the aquifer to potential pollutants;
2. The proposed use will not cause a significant reduction in the long-term volume of water contained in the aquifer or in the storage capacity of the aquifer;
3. The proposed use will discharge no wastewater on site other than that typically discharged by domestic wastewater disposal systems and will not involve on-site storage or disposal of toxic or hazardous wastes as herein defined;
4. The proposed use complies with all other applicable sections of this Ordinance.

The Zoning Board of Adjustment may require that the applicant provide data or reports prepared by a professional engineer or qualified groundwater consultant to assess any potential damage to the aquifer that may result from the proposed use. The Zoning Board of Adjustment shall engage such professional assistance as it requires to adequately evaluate such reports and to evaluate, in general, the

proposed use in light of the above criteria. Costs for any of the above-mentioned services shall be charged to the applicant.

SECTION 4i – CONFLICT WITH OTHER REGULATIONS: Where any provision of this section is in conflict with state laws or other local ordinances, the more stringent provisions shall apply.

SECTION 5 – WETLANDS CONSERVATION DISTRICT:

SECTION 5a – PURPOSE AND INTENT: The purpose of this Ordinance is to protect the public health, safety and general welfare by controlling and guiding the use of land areas which have been found to be subjected to high water tables for extended period of time.

It is intended that this Ordinance shall:

1. Prevent the development of structures and land uses on naturally occurring wetland which will contribute to pollution of surface and ground water by sewage;
2. Prevent the destruction or significant changes to natural wetlands, which provide flood protection;
3. Protect unique and unusual natural areas;
4. Protect residents against the dangers of increased flooding;
5. Protect wildlife habitats and maintain ecological balance;
6. Protect potential water supplies and existing aquifers and aquifer recharge areas;
7. Prevent unnecessary or excessive expenditure of municipal funds for the purposes of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of wetlands;
8. Encourage those low-intensity uses that can be harmoniously, appropriately, and safely located in wetlands.

SECTION 5b – DISTRICT BOUNDARIES:

A. Wetland Definition

The Wetland Conservation District is defined as those areas, which are delineated as poorly drained or very poorly drained soils by the United States Department of Agriculture, Soil Conservation Service, in the Soil Survey of Grafton County as amended.

B. Relation to Other Districts

Where the Wetlands Conservation District is superimposed over another zoning district, the more restrictive regulations shall apply.

C. Wetlands Incorrectly Delineated

Where it is determined that an area has been incorrectly delineated as a wetland, or that an area not so designated was subsequently found to meet the criteria for wetlands designation, the Board of Adjustment shall determine whether the regulations contained herein have application.

The Board of Adjustment shall make their judgment under this section only upon the determination of a certified soil scientist on the basis of additional on-site investigation or other suitable research that the information contained on the Wetlands Conservation Map is incorrect. All costs shall be borne by the applicant.

D. Application

Section 5 (Wetlands Conservation District) applies only to land requiring future Planning Board approval for subdivision or development.

SECTION 5c – PERMITTED USES: Permitted uses are those which will not require the erection or construction of any structures or buildings will not alter the natural surface configuration by the addition of fill or by dredging and uses that otherwise are permitted by the zoning ordinance. Such uses may include the following:

1. Forestry-tree farming, using the best management practices in order to protect streams from damage and to prevent sedimentation;
2. Cultivation and harvesting of crops according to recognized soil conservation practice, excluding the use of fertilizers, pesticides, and herbicides in such cultivations;
3. Wildlife refuges;
4. Parks and recreation use consistent with the purpose and intent of this ordinance;
5. Conservation areas and nature trails; and
6. Open spaces as permitted or required by the subdivision regulations or the zoning ordinance.

SECTION 5d – SPECIAL EXCEPTIONS: Special exceptions may be granted by the Board of Adjustment, after due public notice and public hearing, for undertaking the following uses in the Wetlands Conservation zone, when the application has been referred to the Conservation Commission for review and comment at least thirty (30) days prior to the hearing.

1. Streets, roads, and other access ways and utility right-of-ways easement, including power lines and pipe lines, if essential to the productive use of land not so zoned and if so located and constructed as to minimize any detrimental impact of such uses upon the wetland.
2. Water impoundments.
3. The undertaking of a use not otherwise permitted in the Wetlands Conservation Zone, if it can be shown that such proposed use is not

in conflict with any and all of the purposes and intentions listed in Section A of this article.

SECTION 5e – SPECIAL PROVISION: No septic tank or leach field may be located within 400' of a municipal or community water supply or constructed or enlarged closer than 75' to any wetland.

SECTION 5f – CONFLICT WITH OTHER REGULATIONS: Where any provision of this section is in conflict with state law or other local ordinances, the more stringent provision shall apply.

SECTION 6 – VILLAGE MIX-USE OVERLAY DISTRICT:

SECTION 6a – PURPOSE AND INTENT:

The purpose of the Village Mixed-Use Overlay (VMU) District is to protect the traditional patterns of development present in Franconia and to promote the creation of increased housing alternatives located within a walkable proximity to basic services and local business provided for in the Town of Franconia. To enhance the visual character of the Town by encouraging new construction to respect established architectural traditions; and to strengthen the Town's economy through protection and enhancement of the attractiveness of the community to residents, tourists, and visitors.

SECTION 6b – DISTRICT BOUNDARIES:

The Village Mixed-Use Overlay District is determined to be those areas identified in the official map provided as Attachment A to this zoning ordinance.

Furthermore, the delineation of the VMU District's depth on the eastern side of I-93 is defined as an 1,100' setback border from the centerline of the I-93 northbound lanes which would run north and south, parallel to I-93 and connecting with the north and south boundaries of the Franconia VMU District. For those lots that fall into this VMU District and that also extend beyond the 1,100' setback, for the purpose of density calculations within the VMU District, that additional acreage beyond the boundary line, may also be included in the calculations of allowable density in the VMU portion of the lot. For any additional acreage outside the VMU boundary that was used in the density calculations, this acreage may not be further developed or built on, and shall permanently remain in a natural state that would protect existing wildlife habitat.

SECTION 6c – PERMITTED USES:

1. Conversions from single-family residential structures into two-family residential structures.
2. Conversions from single-family residential structures into multi-family residential structures, not to exceed three units.
3. Mixed-Use Structures not to exceed 2,500 square feet of commercial or professional space, with residential uses provided in upper floors. A minimum of one (1) residential unit must be provided in a mixed-use structure, and a maximum of three (3) residential units will be allowed.

4. Mixed-Use Parcels: Not to exceed 2,500 square feet of commercial or professional space, with residential uses provided on the same parcel with common ownership. A minimum of one (1) residential unit must be provided in all mixed-use parcels, and a maximum of three (3) residential units will be allowed.
5. Home Occupations.
6. Senior Centers and Elder Day Care Facilities.
7. Community and Recreational Facilities
8. Farmer's Markets

SECTION 6d – SPECIAL PROVISIONS:

LOT SIZE: All development activities allowed under a provision of the VMU District provided in Section 6c above, must conform with the applicable lot size standards and other regulations as set forth in this zoning ordinance.

SETBACKS: All development allowed under a provision of the VMU District provided above shall provide a minimum setback of fifty (50) feet from the center line of the town road on which the property has existing legal frontage. A maximum front setback of one hundred fifty (150) feet shall be required.

SIGNAGE: A maximum of twelve (12) square feet of signage is permitted for development occurring under the provisions of Section 6c.

ARTICLE VI – ADMINISTRATIVE PROVISIONS:

SECTION 1 – BOARD OF SELECTMEN:

It shall be the duty of the Board of Selectmen:

1. To generally administer this Ordinance;
2. To require a permit to build prior to erection or alteration of any structure; and
3. If any violation of the Ordinance occurs, the Selectmen shall institute in the name of the Town of Franconia, any appropriate action, injunction or other proceedings to prevent, restrain, correct, or abate such violation. A civil fine of not more than \$100.00 shall be levied for each day of violation, as provided by NH RSA 676:17.

SECTION 2 – ZONING BOARD OF ADJUSTMENT:

There shall be a five-person Zoning Board of Adjustment, appointed by the Board of Selectmen as provided by state statute, who may upon application:

1. Review and decide on alleged error in administrative finding; or
2. Grant 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.

EXCEPTIONS:

1. The Board of Adjustment shall have the authority to grant an exception to allow a Residential B use in Residential A District provided:
 - a. Maximum building site coverage is 10% and minimum lot size is three acres;
 - b. The introduction of such use shall not constitute a nuisance or be generally inappropriate for the neighborhood in which it is proposed to be located.
2. The Zoning Board of Adjustment shall have the authority to grant an exception to allow a Business B use in Residential B District provided:
 - a. Maximum building site coverage is 10% and minimum lot size is two acres.
 - b. The introduction of such use shall not constitute a nuisance or be generally inappropriate for the neighborhood in which it is proposed to be located.
3. The Zoning Board of Adjustment shall have the authority to grant an exception for any temporary use in any district provided that:
 - a. The use creates no environmental degradation;
 - b. Results in no excessive noise, dust, traffic, lights, etc.;
 - c. Is not detrimental to the neighborhood;
 - d. Site plan review approval is obtained from the Planning Board;
 - e. A performance bond or similar financial device is posted sufficient to cover the entire cost of restoring the site to its original condition. The amount shall be determined by the Planning Board or their agent. All costs associated with the estimate shall be borne by the applicant;
 - f. The exception is to be valid for only one year from the date of issue.
4. The Zoning Board of Adjustment shall grant a special exception for small scale solar or wind power generating facilities provided that:
 - a. Site Plan Review approval is obtained from the Planning Board;
 - b. The proposed use has no detrimental effect on the views or aesthetics within the neighborhood or the town;
 - c. Only one such facility or structure is planned per lot;
 - d. The proposed use meets the spirit and intent of the Franconia Zoning Ordinance.
5. The Zoning Board of Adjustment may grant a special exception from home occupations which are not specifically permitted in Section 4.8 above or for the employment of non-family persons provided that the home occupation:
 - a. Meets the spirit and intent of this section;
 - b. Complies with all the other sections of this ordinance;
 - c. Is appropriate to the neighborhood;
 - d. Does not cause significant impact with regard to traffic, parking, congestion, noise, light, sewage disposal, dust and aesthetics;
 - e. Receives site plan approval from the Planning Board.

ARTICLE VII – SAVING CLAUSE:

The invalidity of any provision of this Ordinance shall not affect the validity of any other provision.