



Town of Conway, Massachusetts

Town Office: 32 Main St. | Town Hall: 5 Academy Hill Rd.
P.O. Box 240, Conway Massachusetts 01341
Phone: (413) 369-4235 Fax: (413) 369-4237
www.townofconway.com

Protective Bylaws of the Town of Conway, Massachusetts

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Protective Bylaws of the Town of Conway, Massachusetts

As adopted at a special town meeting on 19 November 1979 and amended (with approval of the Attorney General of the Commonwealth of Massachusetts) at town meetings held on 8 December 1980, 16 November 1981, 21 December 1981, 8 April 1985, 14 April 1986, 11 March 1993, 23 October 2000, 12 April 2004, 11 April 2005, 12 April 2010, 17 October 2011, 11 May 2015 and 9 May 2016.

ARTICLE 1: PURPOSE

The purpose of this Bylaw is to promote the general welfare of the Town of Conway, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land within the Town, to increase the amenities of the Town, to reduce the hazard from fire by regulating the location and use of buildings and the area of open spaces about them, to minimize congestion and overcrowding of land, and to protect and conserve the value of land and buildings including the conservation of natural resources and the prevention of pollution of the environment.

For the purpose of this Bylaw, the Town of Conway, under the authority granted by the Zoning Enabling Act, General Laws, Chapter 40A, does hereby make this Bylaw to be hereafter known and designated as the ZONING BYLAW OF THE TOWN OF CONWAY.

ARTICLE 2: DISTRICT AND USE REGULATIONS *(Amended 14 April 1986; Amended 11 May 2015)*

For the purposes of the Bylaw, the Town of Conway is hereby divided into the following types of districts:

- a) Rural Residential/ Agricultural District
- b) Light Industrial District
- c) Floodplain District
- d) Solar Overlay District

The boundaries of each of the said districts are hereby established as shown, defined and bounded on a map entitled "Official Zoning Map of Conway" dated November 7, 2013. The Zoning Map, with all explanatory matter thereon, is hereby made a part of this Bylaw.

- a) Where the boundary lines are shown upon said map within the street lines of public and private ways, the centerline of such ways shall be the boundary lines.
- b) Where the boundary lines are shown upon said map approximately on the location of a property, lot, or boundary line, and the exact location of the property, lot or boundary line is not indicated by means of dimensions shown in figures, then the property or lot line shall be the boundary line.
- c) Boundary lines located outside of such street lines and shown approximately parallel thereto, shall be regarded as parallel to street lines, and dimensions shown in figures placed upon said map between such boundary lines from such street lines shall govern; such distance being measured at right angles to such street lines unless otherwise indicated.
- d) In all cases which are not covered by other provisions of this section, the location of boundary lines shall be determined by the distance in feet, if given, from other lines upon said map, the use of indication as shown on said map, or by the scale of said map.
- e) The Flood Plain District is herein established as an overlay district. The underlying permitted uses are allowed provided that they meet the requirements of Article 7 of these Zoning Bylaws as well as those of the Massachusetts State Building Code dealing with construction in flood plains.

SECTION 22: Permitted Uses – Rural/Residential and Agricultural District

Any otherwise lawful activity meeting all requirements of this Bylaw shall be permitted except the following:

22.1: Restricted Uses

- (a) No use or combination of uses of buildings or premises is permitted except by Special Permit which during ordinary use allows more than 15 persons upon that premises simultaneously, except that for a commercial establishment up to 50 customers shall be permitted on the premises at any one time during ordinary business hours.

- (b) Moreover, no use of any premises is permitted that would cause unreasonable traffic, noise, light, odor, electromagnetic radiation or pollution levels incompatible with the character of the neighborhood. Uses as stated under 23.1 are also prohibited.. However, Section 22.1 shall not apply to any educational, religious, agricultural, horticultural, floricultural, or other uses exempted by statute. Section 22.1 shall not be construed to restrict the use of any premises for occasional large gatherings of people for social or other non-commercial purposes. (*Amended 12 April 2004*)

22.2: Multi-Family Dwellings (*Added December 1980*)

One or two dwelling units within a single structure are permitted. (*Amended 12 April 2004*) Multi-Family dwellings are prohibited, (*Amended 16 November 1981*) except as permitted in Section 22.3. (*Amended 12 April 2004*)

22.3 Accessory Apartments (*Added 12 April 2004*)

(a) Purpose

1. For the purpose of providing an additional small dwelling unit to rent, enabling owners of two-family dwellings that are larger than required for their present needs, particularly elderly homeowners, to share space and the burdens of home ownership, the Planning Board may grant a Special Permit in accordance with the following requirements;

(b) Conditions and Requirements

1. Not more than one (1) accessory apartment shall be located within any existing two-family residential structure. (Note: one-family residences, by right, can be made into two-family units [see Article 5] and then have an accessory apartment added.) This means that the total dwelling units allowed per structure is three;
2. The accessory apartment shall be located within the existing residential structure (hereafter referred to as the primary residence);
3. The external appearance of the existing structure shall not be significantly altered from the original and shall maintain the character of the neighborhood. Any stairways, access, or egress alterations serving the accessory apartment shall be enclosed, screened, or located so that visibility from public ways is minimized;
4. Such Special Permit, when granted, shall be recorded at the Registry of Deeds and issued to the owner/occupant of the primary residence and be in force for as long the owner/occupant owns and occupies the building. The Special Permit shall lapse upon transfer of said property or when the owner no longer occupies the property. If the Special Permit lapses, the new owner may apply for a new special permit within 6 months of taking ownership of the property. The owner of the building shall occupy one of the dwelling units, except that the owner/occupant can be absent for up to 6 (six) months per calendar year;
5. For the purposes of this by-law, the “owner” shall be defined as one or more individuals residing in a dwelling, who hold title and for whom the dwelling is the primary residence for voting and tax purposes. Said owner may designate a legal relative as a “life tenant” who may occupy the house in the owner’s stead. Certification by affidavit shall be provided by the owner;
6. The accessory apartment shall meet the standards of the State Building Code and State Environmental Code, 780CMR 6th edition MA Building Code, chapter 36 3603.41, Title V. Prior to issuing a Special Permit the owner of the property or his or her agent must submit an approved building permit, with floor plans, elevations, or other drawings sufficient to demonstrate compliance with the conditions and requirements of the Special Permit. Prior to occupancy of the accessory apartment the owner must obtain and submit a copy of the Certificate of Occupancy issued by the building inspection department;

(c) Parking

1. Refer to Section 34: Off Street Parking for parking requirements.

(d) Violations and Enforcement

This by-law shall be enforced by the Planning Board and shall be consistent with MGL Chapter 40A Section 7.

22.4: Street Naming & Building Numbering Bylaw *(Added 17 October 2011)*

Purpose

The general purpose of this Bylaw is to set a standard for the clear identification of Public Ways and Common Driveways and the numbering of buildings in Town for the following purposes:

1. To aid and enhance the response of all public safety services, particularly for the Emergency Management Systems within Town and the response of other Emergency Services to 911 Emergency phone calls in Conway;
2. To aid in delivery of the United States Postal Service and other delivery services to locations in Town and;
3. To clearly identify properties for municipal purposes.

Building Numbering Requirements

The general policies and requirements for numbering buildings will apply regardless of the legal ownership or status of the road in question and are as follows:

Building numbers are assigned solely by the Highway Superintendent or his designee to all structures that qualify under the definitions stated herein:

1. All free-standing buildings used for residential, commercial, industrial or municipal purposes shall have a building number. Accessory outbuildings that provide storage or occasional, non-regular, infrequent use generally do not need a number.
2. A building with more than one residential unit or a property with a residential unit and other qualifying unit(s) – dwelling or business – will require only one building number with letters, i.e., A, B, etc., assigned to distinguish the individual units.

A request for a building number shall be submitted to the Highway Superintendent or his designee as the first requirement of a building permit application and the assigned number must appear on all permit documents. A building permit shall not be issued for any building that requires a number, based on its use, until a building number has been assigned.

Camps, cabins and cottages fall under this Bylaw if they are to be seasonal or year round residences or are rented as a housing or commercial unit.

Obtaining a New Building Number

When a qualifying building is constructed or converted to another purpose in Town, it shall be the duty of the owner to request on the proper form the correct number assignment from the Highway Superintendent or his designee prior to the issuance of any structural or use permits or any changes in the structure. The Highway Superintendent or his designee shall meet with the property owner to fix the location of the permanent driveway for the purpose of determining the official number.

Request forms are available at the Town Office or on the Town website, www.townofconway.com, under “Forms and Downloads.”

Placement of Building Numbers

Owners must affix building numbers to those structures for which a number has been designated by the Town. No building number, other than the one so designated by the Town, shall be affixed to or allowed to remain on any building requiring a number. Other markers, such as historical information like “Built 1795,” must be placed or styled in a way that will not conflict or easily be confused with the building number. The requirements for affixing building numbers are as follows:

1. Emergency response personnel must be able to see building numbers from their vehicles from the street, day or night.

2. However, if a building is not within 50 feet of and clearly visible from the center of the road, the building number shall be placed on a post, mailbox or other obvious place within fifteen (15) feet and on the same side of the Public Way at the end of the driveway access to said building.
3. All building numbers should be 4-6 feet above ground level so as to be seen in both directions of vehicular traffic and must be placed so as to be visible at all times above piled, plowed or accumulated snow, shrubberies or other obstructions. Building numbers on a mailbox are considered compliant with this Bylaw only if the mailbox is on the same side of the street as the building requiring a number and within 15 (fifteen) feet of the edge of its driveway.
4. A building that has more than one dwelling unit (including multi-family and accessory "in-law" apartments) shall have one street number with a letter assigned to the individual dwelling units, based on the principle of the unit's main entrance nearest to the beginning of the Public Way designated as A, the next distant as B, etc.

Size, Color of Street Number

Building numbers shall be of permanent weatherproof material, at least four (4) inches tall, and clearly visible against a contrasting background from the Public Way. Numbers must be in numerical, not word, form and shall be clearly visible under all conditions at all times of the year. Reflective numerals are recommended as being more easily visible for emergency personnel with flash or spot lights at night in an otherwise unlighted yard.

Brass, gold-colored or silver-colored numerals on a natural wood background must be sufficiently contrasting for good visibility under this Bylaw. Numbers carved into natural stone or wood should be painted to provide adequate contrast with their background. It shall be the duty of the property owner to maintain and display the building numbers in accordance with this section.

House Names

The commonly-known name of a building (i.e. a business sign or house name, "Post Office," "The Orchard") is not adequate identification for Emergency Management System purposes. The assigned building number for every qualifying building must be clearly displayed, as defined in this Bylaw.

Private and Shared Driveways

A driveway to a single residence from a Public Way is to be numbered along the Public Way and is not eligible for a different name unless future additional development on that driveway is planned or a reasonable expectation. In that case, the owner may request a name for the driveway and building numbers will be issued on that driveway in accordance with this Bylaw.

Driveways in regular use prior to the date of the acceptance of this Bylaw are not required to change to a named driveway until additional buildings are erected that need a number under this Bylaw. At that time, a request must be presented to the Planning Board for a driveway name and all of the numbered buildings on that driveway will be renumbered by the Highway Superintendent or his designee in accordance with the numbering system used elsewhere in this Bylaw.

Numbering on Shared and Common Driveways

Qualifying buildings on a named or Common Driveway will be assigned a building number consistent with this Bylaw and will use only the approved name of the shared or Common Driveway.

Qualifying buildings on an unnamed Shared Driveway shall be numbered from the road which provides access to the Shared Driveway.

Shared and Common Driveway Names

The Planning Board will assign a permanent name to a qualifying private way. The Planning Board shall solicit and consider name suggestions from the property owner(s) on the driveway, but may refuse them and choose another name. At the property owner's/developer's expense, the assigned name will be recorded with the Town Clerk within 30 days of the name's assignment by the Planning Board. The new name shall be the property's physical address.

At the expense of the property owners along the named private way, the Town will provide the sign. The town will install the sign within 30 days of the name assignment; it will be placed at the intersection of the Public Way and named driveway.

Street Name Changes

Street name changes will be made at the sole discretion of the Planning Board. Written notice shall be sent to all affected property owners, explaining the need for the change, and they will be invited to contribute suggestions for a new name. On acceptance by the Planning Board of the new name, all affected property owners shall be notified in writing by certified mail confirming the new street name and their new number, and they shall have sixty (60) days in which to change the numbers, if needed, on their buildings. All official Town records will be changed within 60 days of the Planning Board's final acceptance action and the name change and acceptance.

Enforcement

No Occupancy Permit for a newly erected structure shall be issued by the Building Inspector until the number and name of the way has been displayed as specified in this Bylaw.

In the event that a sign becomes inadequate, it shall be replaced by the current owner of the property.

Appeal

Any person aggrieved by the enforcement of this Bylaw, or by the refusal of the enforcing authorities to enforce any provision of this Bylaw, may file an appeal with the Zoning Board of Appeals within 30 calendar days of the date of such enforcement action or refusal. All appeals shall be handled in a manner consistent with the standard rules of the Board of Appeals.

Glossary

Driveway – that area of land which provides access to a building (or buildings) from a public or private way

Common Driveway – a privately-maintained driveway over private property that serves more than two residences and has been given a separate name with the designation “Drive.” It must meet the building requirements in the Zoning Bylaw.

Shared Driveway - a privately-maintained driveway over private property that serves two residences and may have been given a separate name with the designation “Drive.”

SECTION 23: Permitted Uses – Light Industrial District

Any use permitted in the Rural/Residential and Agricultural District and the following:

23.1: Light Industrial Use

Any use which involves the fabrication, assembly, finishing, packaging or processing of products, but excluding the following uses which shall not be permitted: Asphalt manufacturing or refining, coal storage, creosote, distillation of coal, wood or bones, explosive or fireworks manufacturing, fat rendering, fertilizer or potash manufacturing or refining, glue or size manufacturing or process involving recovery from fish or animal offal, gypsum, cement plaster or plaster of paris manufacturing, incineration, junk or salvage yard or junk or salvage storage, petroleum refining, tar distillation, tar roofing manufacturing, ammonia, chlorine or bleaching power manufacturing, celluloid manufacture, iron, steel or other metal manufacturing, leather processing, paint manufacture, paper manufacture, poisonous gases (except welding gases), rubber manufacture, soap manufacture, drop forge shop, settling gas, cyanide compound or oxygen manufacture, fumigation plants, match manufacture, tire recapping or retreading or other use commonly considered hazardous or noxious.

23.2: Commercial Use

Any use which involves sales at retail or wholesale goods and merchandise.

23.3: Restrictions on Light Industrial and Commercial Uses

- (a) No light industrial or commercial use is permitted which causes continuous noise or vibrations that are normally perceptible above street noise without instrumentation at any point more than 100-feet from the premises, or which results in flashing lights being visible at any point more than 100 feet from the premises.

- (b) No light industrial or commercial use is permitted unless cinders, dust, fumes, gases, odors, and electromagnetic radiation are effectively confined to the premises.

23.4: Additional Requirements

- (a) Site plan review and approval by the Planning Board is required for expansion within this zone.
- (b) All buildings be visually screened from abutting residential property through the appropriate use of plantings, fencing, or other suitable screening means.

SECTION 24: Radioactive Waste Disposal *(Added 16 November 1981)*

No land within any use district in the Town of Conway may be used for the collection, treatment, storage, burial, incineration, or disposal of radioactive waste, including but not limited to wastes classified as low-level radioactive waste. *(Amended (1) 21 December 1981: Amended (2) 14 April 1986)*

ARTICLE 3: GENERAL REGULATIONS

SECTION 31: Presently Existing Uses, Structures, and Lots

31.1: Continuation and Restoration

Any use of structure, whether conforming to this Bylaw or not, may be continued if that use or structure was lawfully existing at the time it became nonconforming, and may be restored if destroyed by fire or other accidental or natural cause or demolished, but if discontinued or abandoned for more than 24 months, subsequent use shall comply with this Bylaw. *(Amended 16 November 1981)*

31.2: Alteration

Legally nonconforming structures may be altered if without extension or change of use. Nonconforming structures or nonconforming uses of structures or land may be extended or changed to another nonconforming use only if granted a Special Permit by the Planning Board.

31.3: Nonconforming Lots

Any recorded or registered lot not meeting the frontage or area requirements of this Bylaw, if having an area of 5,000 square feet or more and at least 50 feet of frontage on a public way, if owned separately from an adjoining land at the time of recording, and if it conformed at that time to the then existing requirements, may be built upon for any otherwise permitted use even though not meeting frontage and area requirements.

SECTION 32: Environmental Controls

32.1 Screening

Any reasonably large accumulation of junk, trash, or debris shall be confined out of sight by plantings or other screenings.

32.2 Hazard

No use shall be allowed which would create unreasonable hazard due to explosion, fire, or other causes. Potentially hazardous conditions shall be fenced, covered or otherwise rendered safe.

32.3: Water Discharge

No building or driveway shall be constructed so as to allow water, snow, ice, or waste material to be deposited upon or discharged upon a public way or upon a neighboring property other than along natural water channels at a speed and volume similar to that which occurred prior to construction. *(Amended 11 April 2005)*

32.4: Stripping Land of Soil and Loam

No person, firm, or corporation shall strip, sever, remove, or convey away any soil, loam, clay, sand or gravel from any land in the Town of Conway not in public use, unless and until such stripping, severance, removal, or conveyance away is first authorized by a Special Permit issued by the Planning Board, except for the continued operation of an existing sand or gravel pit. No special permit is required in conjunction with the construction of a building and/or septic system provided the contours of the land are not altered by a depth or height in excess of six (6) feet and that no change is made to the natural flow of storm water. No such permit shall be issued until an application therefore has been filed with the Board. Said Board shall then hold a public meeting on the application and notice of the filing in relation thereto. *(Amended 11 April 2005)*

32.5: Unregistered Motor Vehicles *(Amended and renumbered 9 May 2016)*

The keeping of more than one unregistered motor vehicle, of any kind, on any premises, assembled or disassembled, shall not be permitted, with the following exceptions:

32.5-1: Said motor vehicles are stored within an enclosed building and in keeping with State Fire laws and Regulations.

32.5-2: A special permit is granted by the Planning Board. Such a Special Permit may be granted after a duly called public hearing to which all abutters to the premises have received notice, and if the Planning Board finds that such keeping: (1) is in harmony with the general purpose and intent of this Bylaw; (2) will not adversely affect the neighborhood; and (3) will not be a nuisance.

32.5-3: All such special permits granted shall specifically limit the number of unregistered motor vehicles to be kept on the premises by the permit holder, shall not run with the land, and shall be limited to a reasonable length of time.

32.5-4: This article shall not apply to motor vehicles which are designed and used for farming purposes or to contractor's equipment, nor shall this article apply to land owners or tenants who store motor vehicles out of sight of abutters and public ways.

32.5-5 Applicants seeking to be licensed by the Selectboard to do business under Massachusetts General Laws Chapter 140, Section 58, Classes 1 – 3 and intending to keep more than one unregistered motor vehicle on the premises and not in an enclosed building must obtain a Special Permit prior to issuance of said license. *(Added 9 May 2016)*

SECTION 33: Signs

33.1: On-Premises Signs

Any business premises may have one on-premises sign with two surfaces in opposite directions devoted exclusively to the premises on which the sign is located of not more than fifteen (15) square feet.

33.2 Off-Premises Signs

Off-premises signs (signs with content not relative to the premises they are on) are allowed only to provide directions to premises. Off-premises signs shall not be more than three (3) square feet in size except by Special Permit from the Planning Board based upon the Board's determination that the sign will serve the informational needs of the motoring public, will not obscure the legibility of existing signs on other premises, will chiefly identify the local business rather than standard product brand names, employs minimum wording to improve legibility, and is consistent with a rustic rural character in which case a sign can be up to fifteen (15) square feet.

33.3: Lighting of Signs

a) No sign shall flash or display movement.

- b) Signs may be illuminated only during the normal business hours.

SECTION 34: Off Street Parking

34.1: Number of Spaces

All premises shall provide off street parking sufficient for all persons who commonly use the premises.

34.2: Additional Requirements

No off street parking area shall be maintained within ten feet of a street line. For Parking areas of 10 cars or more, the following shall apply:

- (a) The use of the area shall not require backing out onto a public way.
- (b) There shall be not more than one entrance and one exit from such lots per 300 feet of street frontage or fraction thereof. If necessary to meet this requirement, users shall arrange for shared egress.
- (c) Such lots shall be screened from any abutting residential use by densely planted shrubs.

34.3: Loading Requirements

Any facility such as a car-wash or drive-in facility which from time to time has lines of vehicles waiting admission shall have sufficient on-site space for such lines without requiring cars to stand on any public way or cross any public sidewalk.

ARTICLE 4: DIMENSIONAL REQUIREMENTS

SECTION 41: Lot Area and Clearances

41.1: Lot Area

No building shall be erected or mobile home placed on a lot unless the lot:

- (a) complies with state and local sanitary codes;
- (b) has a minimum of 200 feet of frontage on a public way that currently provides suitable access for fire, police, and emergency vehicles. *(Amended 12 April 2004)*
- (c) and has a minimum area of one acre or complies with the requirements for back lots in 41.1 (c) or as may be exempted under Section 6 of MGL Chapter 40A. *(Amended 11 March 1993)*.
- (d) Back Lots – an individual lot need not have the required amount of street frontage provided that all of the following requirements are met:
 - (1) The area of the lot is a minimum of four acres;
 - (2) The lot includes a strip of land, easement, or right of way at least 20 feet in width by which it is connected with a public way. Legal proof of such connection SHALL be required from the landowner as part of a request for a building permit; *(Amended 11 April 2005)*
 - (3) The width of the lot where the principal building is to be built is a minimum of 200 feet.

No more than one residential building *(Amended 12 April 2004)* is allowed per building lot. *(Amended 11 March 1993)* This provision shall not restrict the number of outbuildings related to a dwelling which can be placed on a lot.

Driveway access to the residential building of a lot as defined under sections (b) and (c) may or may not enter through the determined frontage of said lot. Safe access shall be the first priority. *(Amended 12 April 2004)*

41.2: Clearances

No building may be located within 25 feet of any boundary or within 50 feet of a public way. However, no front yard need exceed the front yard maintained on any adjoining lot on the same street.

41.3: Agricultural Buildings

Any number of agricultural buildings may be placed or erected on a lot.

41.4 Driveways *(Added 12 April 2004)*

All driveways shall be designed according to requirements listed below. Driveways serving three or more lots have additional requirements (see Common Driveways, Section 41.5).

- (a) at its intersection with the traveled surface of a public way, at least the first 20 feet in length constructed with a minimum curb cut of 20 feet, a maximum slope of 8 percent, and driveway should have crown or slope to direct water away from the public way, and a culvert where applicable.
- (b) A line-of-sight of sufficient distance to permit safe entering onto the travel portion of public way, calculated per AASHTO (American Association of State Highway and Transportation Officials) and MUTCO (Manual on Uniform Traffic Control Devices) as supplied by the Highway Superintendent, and available at the Town Office.
- (c) The approval and signature of the Highway Superintendent on the building permit application, indicating that the driveway meets the above standards before a building permit can be issued.

41.5: Common Driveways *(Section 41.5 COMMON DRIVEWAY BYLAW added 11 March 1993)*

The purposes of this Bylaw are to provide for the safety, welfare, and convenience of town residents and to encourage appropriate land use.

41.5-1: Definitions and Exceptions

A common driveway is a driveway which begins at a public way and provides access to more than one building lot. Common driveways providing access to two building lots are permitted by right and are not subject to this Bylaw. Common driveways, which are to be constructed, extended or utilized to provide access to three or more building lots are required to conform to the Common Driveway Bylaw.

The Common Driveway Bylaw shall not apply when both the common driveways and the building lots to which they provide access existed prior to March 11, 1993. The common driveway bylaw shall not apply to common driveways shown on a plan recorded at the Franklin County Registry of Deeds prior to March 11, 1993. The specific right to use a discontinued road as a common driveway is not intended or implied by any portion of this bylaw.

41.5-2: Design and Performance Requirements

A common driveway shall have:

- (a) A minimum right-of-way width of 30 feet and a maximum gradient of 12%. For short sections, at steeper gradients, variances may be granted the Zoning Board of Appeals. This paragraph shall not apply to rights-of-way existing prior to March 11, 1993;
- (b) A stable sub-base of at least 18 inches of gravel, a minimum wear surface of crushed stone or trap rock applied to a minimum depth of 4 inches, a minimum width of 12 feet, a minimum centerline radius of 75 feet and a minimum of 3 feet of total shoulder;
- (c) If the driveway is a dead-end, a “hammerhead” or other turnaround adequate for a 30 foot vehicle;
- (d) A curb cut of at least 20 feet in width, with a minimum radius of four feet, and an approach area of at least 20 feet in length from the edge of traveled surface of the public way with a slope of not more than 4% grade. This paragraph shall not apply to rights-of-way existing prior to March 11, 1993;
- (e) A “pullout” every 500 feet for a 30 foot vehicle;
- (f) Such storm drains, swales, culverts and drainage retention areas as are necessary to permit the unimpeded flow of all natural water courses, to insure drainage of the driveway, to prevent washout and erosion and to intercept all storm water drainage created by the construction of the common driveway adequate to meet a 25 year frequency storm. All Wetlands Protection Act requirements must be met;

- (g) A line-of-sight of sufficient distance to permit safe entering onto the travel portion of public way, calculated per AASHTO (American Association of State Highway and Transportation Officials) and MUTCO (Manual on Uniform Traffic Control Devices) as supplied by the Highway Superintendent, and available at the Town Office. *(Amended 12 April 2004)*
- (h) A proposed name for the common driveway(s), subject to Planning Board approval.

41.5-3: Maintenance

Maintenance of such a driveway shall be assured through a covenant, landowner’s association or similar legal agreement, approved by the Planning Board and binding upon those served by the driveway, which shall require the landowners to maintain the driveway to the standards of this Bylaw at their mutual, exclusive expense. Such covenant or association agreement shall further state, as a condition of Planning Board approval, that the driveway in question is not a private road or public road and that it is intended to remain in perpetuity as a common private driveway. A statement to this effect shall be shown on all design plans submitted to the Planning Board and included in the language used to convey lots served by the common driveway.

41.5-4: Compliance

No building permit shall be issued for any lot(s) to be served by a common driveway providing access to three or more building lots until an as-built plan, prepared by a Registered Massachusetts Civil Engineer, Landscape Architect, Architect, and/or Land Surveyor, and demonstrating compliance with 41.4 for the lot(s) for which building permits are sought, has been submitted to and approved by the Planning Board or its agent. All as-built plans shall show a statement certifying that the common driveway meets the requirements of the common driveway bylaw. A turnaround meeting the requirements of **41.5-2(c)** shall be provided at a temporary terminus of any common driveway providing access to three or more building lots.

ARTICLE 5: DEFINITIONS

In this Bylaw, the following terms shall have the following meanings, unless a contrary meaning is required by the context or is specifically prescribed:

BUILDING – A combination of any materials, whether portable or fixed, having a roof and/or exterior walls built to form a structure for the shelter, support, or enclosure of person, animals, chattels, or property of any kind.

BUILDING LOT – Any lot which complies with the frontage and dimensional requirements of 41.1[b] or the area and access requirements of either 41.1[c] or 41.4. *(Added 11 March 1993)*

COMON DRIVEWAY – A driveway which begins at a public way and provides access to more than one building lot. *(Added 11 March 1993)*

DRIVEWAY – That area of land which provides access to a building lot from a public way. *(Added 11 March 1993)*

DWELLING, MULTI-FAMILY – A permanent or temporary building containing more than two dwelling units.

DWELLING, ONE OR TWO FAMILY - A permanent or temporary building containing either one or two dwelling units. *(Amended 11 March 1993)*

DWELLING UNIT – One or more living or sleeping rooms constituting a separate housekeeping establishment and containing independent cooking and sleeping facilities arranged for the use of one or more individuals or a family living together as one housekeeping unit.

LOT – A parcel of land laid out by metes, bounds or boundary lines in the last recorded deed or plan in the Franklin County Registry of Deeds.

PUBLIC WAY – A state highway, a county road or a road which has been accepted by the Town of Conway as a town road.

ARTICLE 6: ADMINISTRATION

SECTION 61: Enforcement

This Bylaw shall be enforced by the building inspector who shall be appointed by the Board of Selectmen. Any person violating any of the provisions of this Bylaw may be fined not more than \$50 for each offense. Each day that such violation continues shall constitute a separate offense.

SECTION 62: Zoning Board of Appeals

There is hereby established a Zoning Board of Appeals of three members and two associate members, to be appointed by the Selectmen, which Board of Appeals shall act on all matters within its jurisdiction under this Bylaw and Chapter 40A of the General Laws in the manner prescribed by the said law and by this Bylaw.

SECTION 63: Special Permit Guidelines

Application for Special Permits shall be accompanied by a written report detailing the effects of the development in relation to the criteria of Section 63. In granting a Special Permit the Planning Board has the power to impose any conditions, safeguards, and/or limitations on time or use of premises.

- a) Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a special permit provided the granting authority finds that the proposed accessory use does not substantially derogate from the public good.
- b) **Filing Procedure for Special Permits.** Special Permits shall be granted, denied, or issued with conditions by the Planning Board according to the provisions of Chapter 40A of the Massachusetts General Laws. An applicant for a Special Permit shall file a completed application with the Town Clerk. The application shall include nine (9) copies each of the Special Permit application and a plan of the site. The Town Clerk shall acknowledge receipt of the application by signing and dating the application. The Town Clerk shall transmit copies of the application to the Planning Board, Conservation Commission, the Zoning Board of Appeals, the Board of Health, the Historical Commission, the Highway Superintendent, the Fire Chief, the Energy Committee, and the Building Inspector. Town Boards and municipal officials shall have **30 days** from the date the completed application is received by the Town Clerk to report to the Planning Board their findings and recommendations. The date of receipt by the Town Clerk on behalf of the Planning Board, shall be the date of submission of the Special Permit application.

(Amended 11 May 2015)

- c) All other special permits otherwise in compliance with the provisions of this Bylaw and of Chapter 40A, shall be issued only upon written determination by the Planning Board that there be no significant adverse effects (to the neighborhood and/or town) in any of the following categories:
 - (a) **Traffic Flow and Safety:** for example, to what degree will the service level of abutting streets be reduced because of added traffic volume? Will hazardous egress conditions result? Is traffic generation in relation to street frontage unusually high or low relative to nearby uses? Have such efforts been made as spacing egresses more widely than required, or sharing of egresses? Is the town capable of servicing the premises considering existing roads and town equipment?
 - (b) **Adequacy of Utilities and other Public Services:** for example, will pressures on the highway department, school system, or other public services mount more rapidly than the town is reasonably able to relieve these pressures?
 - (c) **Qualities of the Natural Environment:** for example, what will the consequences for wildlife, vegetation, hydrology, water quality, and air quality be? Does the proposal take

into account the effects of large topographic change, tree removal, or increased storm water flow from the site?

- (d) **Impact on Other Properties:** for example, will the use or value of abutting or otherwise related properties be affected? What will be consequences for other property of sound, light, odor, traffic, and other disturbances?
- (e) **Community Health:** for example, will the development tend to increase unemployment, decrease public revenues, destroy neighborhoods, or otherwise on balance take more from the town than it returns?

63.1: Time to Begin Construction

Construction must begin within one year after a Special Permit or building permit is issued, except for good cause. (*Amended 8 April 1985*)

63.2: Time to Use Special Permit

A Special Permit shall lapse within two years, including such time as may be required to pursue or wait the determination of an appeal from the grant of the permit, if a substantial use of the permit has not begun within that two years, except for good cause. (*Amended 8 April 1985*)

63.3: Subsequent Amendments

A Special Permit or building permit shall conform to any subsequent amendments to this Bylaw unless the use or construction has commenced, within six (6) months, and if construction is involved, unless such construction is continued through to completion at reasonable speed.

SECTION 64: Site Plan Review (*Added 11 May 2015*)

- a) **Purpose.** The purpose of Site Plan Review is to ensure that new development is designed in a manner which reasonably protects the environmental and scenic qualities of the neighborhood and the Town.
- b) **Site Plan Review Process.** The Site Plan Review process will be conducted by the Planning Board.
- c) **Applicability.** Site Plan Review shall be required for Large-scale Ground-Mounted Solar Facilities (Article 9), Light Industrial expansion, and other Non-Residential Uses.
- d) **Procedures.** An applicant for Site Plan Review shall file a completed application with the Town Clerk. The Town Clerk shall acknowledge receipt of the plans by signing and dating the application form. The application submitted to the Town Clerk shall include nine (9) copies each of an application form and any narrative documents as outlined in the submittal requirements. Upon receipt of the application, the Town Clerk shall transmit copies of the application to the Planning Board, Zoning Board of Appeals, Conservation Commission, Board of Health, the Highway Superintendent, Historical Commission, Energy Committee, the Fire Chief and the Police Chief. These Town Boards and municipal officials shall have 45 days from the date the completed application is received by the Town Clerk to report to the Planning Board their findings and recommendations, and they can attend the public hearing(s). No building permits for projects requiring Site Plan Review shall be issued until the Planning Board has approved the Site Plan or unless the required time period for taking action on a Site Plan has lapsed without action from the Planning Board. The applicant is also responsible for obtaining all applicable permits or approvals that may be required for the development from other Town Boards or municipal officials.
- e) **Public Hearing.** The Planning Board shall hold a public hearing within 65 days after the filing of a completed application and shall take final action on an application for Site Plan Review within 90 days of the close of the public hearing. Notice and posting of the public hearing shall comply with the provisions of M.G.L. Chapter 40A, Section 11, regarding notice for public hearings.
- f) **Required Contents of a Site Plan.** All Site Plans shall be prepared by a registered architect, registered land surveyor, registered landscape architect, or registered professional engineer. A locus map at a scale of 1" = 100 feet shall be provided showing parcels and roads within 300 feet of the property line. The Site Plans shall be on standard sheets of 24 inches by 36 inches and prepared at a scale of 1"=40 feet or finer. The Site Plan and accompanying narrative shall contain the following:

1. Name of project, boundaries, locus map(s) showing site's location in Town, date, north arrow and scale of plan;
2. Name(s), address(es), and phone number(s) of the owner(s) of the land, the developer (if applicable), and/or their designee;
3. Name, title, address, and phone number of person(s) who prepared the plan;
4. Names and addresses of all owners of record of abutting lots and those within 300 feet of the property line;
5. All existing lot lines, easements and rights of way;
6. Location and use of buildings and structures within 300 feet of the site;
7. Location and use of all existing and proposed buildings and structures, including approximate height and floor area;
8. Location and size in acres of wetlands on the site reviewed and approved by the Conway Conservation Commission;
9. The location and a description of all proposed sewage disposal systems, sewer connections, water supplies, storm drainage systems, utilities and other waste-disposal methods;
10. Location and date of all registered "perc" tests on the site;
11. Location of all proposed new lot lines;
12. Existing and proposed topography at a two-foot contour interval for the proposed grading and landscape plan;
13. Location of existing public ways and proposed private ways on the site;
14. Location and size of proposed parking and loading areas, driveways, walkways, access and egress points;
15. The location and a description of proposed open space or recreation areas;
16. The location of existing farmland and agricultural soils classified as prime farmland or soils of state and local importance;
17. Size and location of existing and proposed sign(s);
18. Surface drainage strategy that prevents increased drainage off-site or pollution;
19. Existing vegetation that will be left undisturbed and proposed landscape features, including the location and a description of screening, fencing and plantings using non-invasive species;
20. Design features which will integrate the proposed development into the existing landscape, maintain neighborhood character, and screen objectionable features from neighbors and roadways;
21. Estimated average daily and peak-hour vehicle trips to be generated by the site and traffic flow patterns for both vehicles and pedestrians, showing adequate access to and from the site and adequate circulation within the site; and
22. Other reasonable information the Planning Board may request in order to make a decision.

g) **Decision.** The Planning Board's action shall consist of either:

1. Approval of the Site Plan based upon the determination that the proposed project is in compliance and consistent with the criteria set forth in this Bylaw;
2. Approval of the Site Plan subject to conditions, modifications, and restrictions as the Planning Board may deem necessary; or
3. Denial of the Site Plan based upon specific findings such as a determination that there was insufficient information submitted with the proposal to adequately review it or that the project is inconsistent with the requirements of these Zoning Bylaws.

The decision of the Planning Board shall be filed with the Town Clerk within 90 days of the close of the Public Hearing. The written record of the Planning Board's decision including any approved Site Plan shall be filed with the Town Clerk within 14 days of the final vote or sooner to meet the 90 day maximum time frame. A copy of any approved Site Plan and the decision of the Planning Board shall be sent by the Town Clerk to the Building Inspector and the applicant. The Site Plan shall be recorded at the Registry of Deeds by the applicant with confirmation of such recording sent to the Town Clerk.

h) **Administration, Waivers and Appeals.** The Planning Board may adopt and from time to time amend regulations for the submission and approval of Site Plans. The Planning Board may waive any of the requirements for Site Plan Review submittals and approval if the simplicity or scale of the project warrants such action. The Planning Board may also request any additional information it should need to render a decision. For large or complex projects, the Planning Board shall have the right to retain a registered professional engineer, planner, designer or other professional to advise the

Board regarding any or all aspects of the Site Plan. The applicant shall be responsible for the costs of such advice. Appeals of the decision by the Planning Board on the Site Plan may be submitted to the Zoning Board of Appeals.

- i) **Compliance with Other Bylaws.** The Site Plan shall comply with any zoning bylaws for parking, loading, dimensions, environmental controls and all other provisions of the Zoning Bylaw. Before approval of a Site Plan, the Planning Board may request that the applicant make modifications in the proposed design of the project to ensure that the above criteria are met.
- j) **Review Criteria.** The Planning Board's evaluation of the proposed Site Plan shall include, as appropriate, the following:
 1. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls;
 2. Adequacy and arrangement of pedestrian traffic access and circulation, pedestrian walkways, control of intersections with vehicular traffic and overall pedestrian safety and convenience;
 3. Location, arrangement, appearance and sufficiency of off-street parking and loading;
 4. Location, arrangement, size, design and general site compatibility of structures, buildings, lighting and signs in relation to the terrain and to the use, scale, and proportions of existing and proposed buildings in the vicinity;
 5. Location of structures and buildings to provide a solar and wind orientation or other construction methods that encourage energy conservation;
 6. Adequacy of stormwater and drainage facilities;
 7. Adequacy of landscaping and other screening to minimize the visual impact of the development from public ways or abutting properties; and
 8. Protection of farmland and forestry resources.

SECTION 65: Amendment

This Bylaw may be amended from time to time at an Annual or Special Town Meeting in accordance with the provisions of Section 6 of Chapter 40A.

SECTION 66: Validity

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof.

SECTION 67: Applicability

Where the application of this Bylaw imposes greater restriction than those imposed by other regulations, permits, restrictions, easements, covenants or agreements, the provisions of this Bylaw shall control.

ARTICLE 7: FLOOD PLAIN DISTRICT

SECTION 71: Flood Plain District

A. Floodplain District Boundaries and Base Flood Elevation Data.

The Flood Plain District is herein established as an overlay district. The District includes all special flood hazard areas designated on the Conway Flood insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the NFIP dated June 4, 1980, as Zone A, AE, AH, AO, A1-30, A99, V, V1-30, VE and the FEMA Flood Boundary and Floodway Map dated June 4, 1980, both maps which indicate the 100-year regulatory floodplain. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Flood Insurance Study booklet dated December 1979. The FIRM Floodway Maps and Flood Insurance Study booklet are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission and Building Commissioner.

B. Base Flood Elevation and Floodway Data.

1. Floodway Data. In Zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result

in any increase in flood levels within the community during the occurrence of the base flood discharge.

2. Base Flood Elevation Data. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.

C. Notification of Watercourse Alteration.

In a riverine situation, the Emergency Management Director shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities
- Bordering States (optional)
- NFIP State Coordinator
Massachusetts Department of Conservation and Resources
251 Causeway Street, Suite 600-700
Boston, MA 02114-2104
- NFIP Program Specialist
Federal Emergency Management Agency, Region 1
99 High Street, 6th Floor
Boston, MA 02110

D. The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with MGL Chapter 131, Section 40 and with the following:

- Section of the Massachusetts State Building Code which addresses floodplain and costal high hazard areas (currently 780 CMR Appendix 102.G, “Flood Resistant Construction”);
- Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
- Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
- Costal Wetlands Restriction, DEP (currently 310 CMR 12.00);
- Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 12.00)

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

(Amended – Annual Meeting – 12 April 2010)

SECTION 72: Development Regulations

The following requirements apply in the Flood Plain District:

- (a) Within Zone A, where the base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data and it shall be reviewed by the Building Commissioner for its reasonable utilization toward meeting the elevation or flood proofing requirements, as appropriate, of the State Building Code.
- (b) In the floodway, designated on the Flood Boundary and Floodway Map, the following provisions shall apply:
 - (1) All encroachments, including fill, new construction, substantial improvements to existing structures, and other development are prohibited unless certification by a registered professional engineer or architect is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100-year flood.
 - (2) Any encroachment meeting the above standard shall comply with the flood plain requirements of the State Building Code.

ARTICLE 8: WIRELESS COMMUNICATION FACILITIES *(added 23 October 2000)*

Purpose. The purpose of this Wireless Communications Facilities Bylaw is to protect the scenic, historic and natural resources of the Town of Conway while accommodating the wireless telecommunications needs of town residents and businesses. *(Amended 11 April 2005)*

This **Bylaw** does not apply to satellite dishes and antennas for residential use. *(Amended 11 April 2005)*

The Conway Planning Board shall issue Special Permit to duly licensed wireless carriers, as defined in the Telecommunications Act of 1996, 47 U.S.C. §332(c)(7)(ii), in Conway, providing the following:

Applicants shall:

- (a) Recognize the Conway Planning Board as the sole permit authority, for the town of Conway.
- (b) Demonstrate that existing facilities cannot accommodate applicant's needs.
- (c) Be responsible for the cost of designing the entire wireless communication infrastructure for the entire Town of Conway.
- (d) Contact all other wireless carriers, currently licensed in Massachusetts, and demonstrate having made sufficient provisions for their shared and cooperative use of facilities.
- (e) Demonstrate that proposed new facilities will:
 - (1) maximize use for all currently licensed carriers,
 - (2) protect the town's esthetic concerns by addressing color or camouflage, backdrop to protect ridge line, preservation of on site vegetation, and illumination, to minimize visual impact, *(Amended 11 April 2005)*
 - (3) use existing structures where possible. (i.e., high tension tower, inside steeples, disguised on water towers, on public buildings), and where free-standing antenna are proposed, that only monopoles shall be used.
 - (4) yield to the Conway Planning Board concerns of monopole height and number of monopoles. New towers shall be the minimum height necessary to comply with the purpose of this Bylaw, and not exceed 120 feet. *(Amended 11 April 2005)*
 - (5) comply with existing building codes and the Conway Protective Bylaws.
- (f) Meet requests by the Town for access and antenna space to serve the needs of the Town's emergency service providers. *(Amended 11 April 2005)*
- (g) Comply with requirements set forth by the Planning Board to demonstrate the visibility of any proposed new tower(s), e.g., by a balloon or mast raised at the location of the proposed Wireless Communication Facility. *(Amended 11 April 2005)*
- (h) Not post any advertising on proposed facilities.
- (i) Pay for the cost of the Planning Board's communications consultants and attorneys to evaluate the application and provide any information requested by these agents.
- (j) Post bond sufficient to cover the cost of seizing and dismantling the proposed facilities, if not in continuous active use, for said purpose, for a period of six months and recognize the Conway Planning Board's authority to order such.
- (k) Provide, if applicable, a written statement that the proposed facility complies with, or is exempt from, applicable regulations administered by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health.
- (l) Provide annual certification demonstrating continuing compliance with the standards of the Federal Communications Commission, Federal Aviation Administration, the Massachusetts Department of Public Health and the National Standards Institute and required maintenance shall be filed with the Building Inspector by the Special Permit Holder.
- (m) Severability – if any portion of this Bylaw is determined to be invalid, it shall not render the rest of the bylaw invalid.

*Original adopted 23 October 2000; Approved by Attorney General 26 February 2001
Amended 11 April 2005*

ARTICLE 9: LARGE SCALE SOLAR FACILITIES BYLAW

SECTION 91: Large Scale Solar Facilities Bylaw

*(Added as Section 22.5 "As-of-Right Siting" – Special Town Meeting 17 October 2011;
Renamed and amended – annual Town Meeting – 11 May 2015)*

(a) Purpose

The purpose of this bylaw is to promote the creation of new large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation,

monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

The provisions set forth in this section shall apply to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations.

1. Applicability

This section applies to large-scale ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

(b) Definitions

As-of-Right Siting: As-of-Right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development may be subject to Site Plan Review to determine conformance with local zoning ordinances or bylaws. Projects cannot be prohibited, but can be reasonably regulated by the inspector of buildings, building commissioner or local inspector, or if there is none in a town, the Planning board designated by local ordinance or bylaw.

Building Inspector: The inspector of buildings, building commissioner, or local inspector, or person or board designated by local ordinance or bylaw charged with the enforcement of the zoning ordinance.

Building Permit: A construction permit issued by an authorized building inspector; the building permit evidences that the project is consistent with the state and federal building codes as well as local zoning bylaws, including those governing ground-mounted large-scale solar photovoltaic installations.

Solar Overlay District: The Solar Electric Overlay District(s) as designated by the Town of Conway are shown on the Official Zoning Map dated November 7, 2013 in accordance with Massachusetts General Laws Chapter 40A. This map is hereby made a part of this Zoning Bylaw and is on file in the Office of the Conway Town Clerk. Large-scale solar installations are allowed as-of right in this district.

Large-Scale Ground-Mounted Solar Photovoltaic Installation: A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted and has a minimum nameplate capacity of 250 kW DC.

On-Site Solar Photovoltaic Installation: A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur.

Rated Nameplate Capacity: The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).

Solar Photovoltaic Array: an arrangement of solar photovoltaic panels.

Zoning Enforcement Authority: The person or board charged with enforcing the zoning ordinances or bylaws.

(c) General Requirements for all Large Scale Solar Power Generation Installations

The following requirements are common to all solar photovoltaic installations to be sited in Conway.

1. Compliance with Laws, Ordinances and Regulations

The construction and operation of all large scale solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.

2. Building Permit and Building Inspection

No large scale solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

3. Fees

The application for a building permit for a large scale solar photovoltaic installation must be accompanied by the fee required for a building permit.

(d) Site Plan Review

Ground-mounted large scale solar photovoltaic installations, with 250 kW or larger of rated nameplate capacity shall undergo Site Plan Review (*see Section 64*) by the Planning Board prior to construction, installation or modification as provided in this section.

1. General

All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.

2. Required Documents

Pursuant to the Site Plan Review process, the project proponent shall provide the following documents in coordination with or in addition to those required by Section 64:

- (a) A site plan showing:
 - i. Property lines and physical features, including roads, for the project site;
 - ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
 - iii. Blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures
 - iv. One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
 - v. Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
 - vi. Name, address, and contact information for proposed system installer;
 - vii. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any; and
 - viii. The name, contact information and signature of any agents representing the project proponent.
- (b) Documentation of actual or prospective access and control of the project site (*see Section 91(e)*);
- (c) An operation and maintenance plan (*see Section 91(f)*);
- (d) Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose);
- (e) Proof of liability insurance; and
- (f) Description of financial surety that satisfies Section 91(k).

The Planning Board may waive submittal of the Required Documents as it deems appropriate.

(e) Site Control

The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

(f) Operation & Maintenance Plan & Landscape Plan

The project proponent shall submit a plan for the operation and maintenance of the large-scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

The project proponent shall submit a Landscape Plan detailing all proposed changes to the landscape of the site including: vegetation removal, temporary or permanent access roads, grading, exterior lighting and screening of structures. The Landscape Plan shall show the type and location of vegetation proposed to screen the installation including appurtenant structures from public ways and adjacent properties. The depth of the screen shall be 30 feet and will be composed of native trees and shrubs staggered for height and density that shall be properly maintained. The owner/operator shall not remove any naturally occurring vegetation such as trees and shrubs unless it adversely affects the performance and operation of the solar installation.

(g) Utility Notification

No large-scale ground-mounted solar photovoltaic installation shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

(h) Dimension and Density Requirements

1. Setbacks

For large -scale ground-mounted solar photovoltaic installations, front, side and rear setbacks shall be as follows:

- (a) Front yard. The front yard depth shall be at least 50 feet;
- (b) Side yard. Each side yard shall have a depth at least 50 feet;
- (c) Rear yard. The rear yard depth shall be at least 50 feet.

(i) Appurtenant Structures

All appurtenant structures to large- scale ground-mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

(j) Design Standards

1. Lighting

Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

2. Signage

Signs on large-scale ground-mounted solar photovoltaic installations shall comply with a municipality's sign bylaw. A sign consistent with a municipality's sign bylaw shall be required to identify the owner and provide a 24-hour emergency contact phone number.

Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.

3. Utility Connections

Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

4. Safety and Environmental Standards

i. Emergency Services

The large scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

ii. Land Clearing, Soil Erosion and Habitat Impacts

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws.

5. Monitoring and Maintenance

i. Solar Photovoltaic Installation Conditions

The large-scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

ii. Modifications

All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Planning Board.

6. Abandonment or Decommissioning

i. Removal Requirements

Any large-scale ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned consistent with Section 91(j)6. of this bylaw shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

(a) Physical removal of all large-scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.

(b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

(c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

ii. Abandonment

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. If the owner or operator of the large-scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the installation.

iii. Financial Surety

Proponents of large-scale ground-mounted solar photovoltaic projects shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be acceptable by the Planning Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety will not be required for municipally- or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

A certified copy of these Protective Zoning Bylaws is available from the Conway Town Clerk during normal Business hours.