

ZONING ORDINANCE

FOR THE

TOWN OF FRANCONIA

Adopted March 10, 1970

Includes addendums dated
1972, 1974, 1975, 1979,
1982, 1984, 1985, 1986,
1987, 1988, 1991, 1993,
1994, 2000, 2001, 2003,
and 2007

TABLE OF CONTENTS

PREAMBLE 1

ARTICLE I - PURPOSE 1

ARTICLE II - EFFECTIVE DATE 1

ARTICLE III - DISTRICT REGULATIONS 1

 Section 1 - Permitted Uses 1

 Section 2 - Density Requirements 2

ARTICLE IV - GENERAL PROVISIONS 5

 Section 1 - Zoning Map 5, 28

 Section 2 - Non-conforming Uses 5

 Section 3 - Residential Conversions 5

 Section 4 - Home Occupations 5

ARTICLE V - ADDITIONAL PROVISIONS 6

 Section 1 - Land Subdivision 6

 Section 2 - Removal or Dumping 7

 Section 3 - Parking 7

 Section 4 - Sanitary Sewage 7

 Section 5 - Nuisance 7

 Section 6 - Dwelling Size 7

 Section 7 - Fire Ruins or Vacant Dilapidation 7

 Section 8 - Signs 8

 Section 9 - Flood Hazard Conservation District 9

 Section 10 - Airport Zoning 15

 Section 11 - Planned United Developments (PUD) 16

 Section 12 - Multi-Unit and Commercial Structures 18

 Section 13 - Timber Processing 19

 Section 14 - Aquifer Conservation District 19

 Section 15 - Wetlands Conservation District 23

ARTICLE VI – ADMINISTRATION 25

ARTICLE VII – BOARD OF ADJUSTMENT 25

ARTICLE VIII – SAVING CLAUSE 27

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:

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

SECTION 1 – PERMITTED USES:

The following land uses are hereby permitted for each district as indicated, but upon appeal, the Board of Adjustment has the right of interpretation of the definition for the purposes of compliance.

RESIDENTIAL A DISTRICT:

Any lot may be used for a one-family residence structure, general farming, timber removal, manufactured housing, owner occupied tourist home or home occupation as provided in Article IV, Section 4.

RESIDENTIAL B DISTRICT:

Any lot may be used for any use permitted in Residential a district, with the exception of manufactured housing, and also for schools, institutions, multi-family units as provided in Article III, Section 2f, inns, hotels and motels with accessory facilities that provide for dining and recreation such as tennis, golf, and skiing. for purposes of this paragraph, a hotel or motel must consist of five or more double occupancy sleeping units. Density shall not exceed ten (10) double occupancy-sleeping units per acre. See Article III, Section 2C.

BUSINESS DISTRICT A:

Any lot may be used for any use permitted in Residential B District, and also for retail stores, offices, wholesale and light industrial, garage and filling station or other business use whose operation and appearance is compatible and not offensive or injurious or a nuisance to its neighborhood.

BUSINESS DISTRICT B:

Any lot may be used for single family dwelling, bed and breakfast, retail shop, professional office, home occupation, as provided in Article IV, Section 4, or other business, the operation and appearance of which is compatible with the neighborhood in terms of building scale and residential character. Any use must provide adequate water supply, sewage disposal and parking and otherwise obtain site plan review approval from the Planning Board. There will be no further subdivision in Business District B.

SECTION 2 – DENSITY REQUIREMENTS:

Any lot hereafter subdivided for separate sale, use ownership, development, or resale shall have no less than the prescribed street frontage for the district in which it is located, and all structures or sewage systems thereon shall be located at least 50 feet from the street center line and 20 feet from any lot line. Any lot with existing structure to which additions or alterations to increase the number of dwelling units are to be made must conform to the density requirements below. The variable density requirements as shown on the attached schedule are applicable to all uses in each specific district, except that one dwelling unit shall be permitted on any subdivided lot recorded prior to March 10, 1987.

District	Residential A	Residential B	Business A Dwelling	Business A Non-Dwelling	Bus. 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 2a:1: The Board of Adjustment may grant a special exception from the above lot frontage requirements provided the following conditions are met:

- 1) The lots are being created as part of a minor subdivision of 3 lots or less;
- 2) A minimum deeded or dedicated 50-foot right-of-way is provided to allow future construction of a street that meets all town standards. Such right-of-way shall be laid out and a street engineered so as to meet all requirements for road construction in the Franconia Subdivision Regulations.
- 3) All lots shall have frontage on the proposed right-of-way equal to the minimum lot frontage for the district in which it is located.
- 4) No building permit shall be issued for any such lot until the street has been completed to town standards as determined by the Selectmen or their agent.
- 5) No re-subdivision of any of the lots shall be permitted until the proposed street is completed.

SECTION 2a:2: The Planning Board may reduce the minimum lot frontage and setback requirements in a PUD or cluster development (See Section XI).

SECTION 2b: From one to four bedrooms shall comprise a single dwelling unit and all dwelling units must conform to the acreage required per unit in each district. Owner occupied tourist homes and “bed and breakfasts” will have a limit of two units or eight bedrooms. Change in usage will require a change of use permit to be issued by the Board of Selectmen. Change from single ownership, as in a condominium situation, is to be considered subdivision and will require an application before the Planning Board.

SECTION 2c: Inns, hotels, and motels shall require a minimum lot size of five acres, excluding poorly drained, very poorly drained, and floodplain soils and slopes over 25%. Additional area may be required to insure adequate area for sewage disposal and to meet site plan review regulations. Their primary use is to be guest accommodations with any change in use requiring a change-in-use permit.

A hotel/motel which includes units with wetbar or cooking facilities shall 1) comply with all hotel/motel regulations, including the density limitation of 10 double occupancy sleeping units per acre based on the number of conventional units (no wetbar or cooking); and 2) in addition, based on the number of units with wetbars and refrigeration or cooking, comply with all regulations regarding multi-family units contained in Article III, Section 2.

SECTION 2d: If soil conditions or slope will, in the opinion of the Planning Board, adversely affect the runoff or erosion or operation of on-site sewage disposal facilities, greater areas may be required.

SECTION 2e: All buildings or structures will be restricted to a maximum height above original ground level of 35 feet. When the building or structure is on sloping land, the average original ground level will prevail.

SECTION 2f:1: Multi-family units (new construction) shall conform to the density requirements of Article III, Sections 2, 2a, 2b, 2d, and 2e.

The density of units may be decreased by the Planning Board. The final determination of density of a parcel to be developed for multi-family dwellings shall be determined by the Planning Board after a thorough evaluation of a proposal, the parcel and neighborhood characteristics, the ability of the site to adequately provide for the buildings, parking, amenities, such as landscaping, recreation areas, walkways, etc., required utilities and services and the impact on town services and streets, and the impact on abutting properties and the neighborhood.

The front lot line setback of all multi-family buildings from public and private rights-of-way shall be 25 feet. The setbacks from side lot lines and rear lot lines of the entire parcel shall be 20 feet. There will be at least 40 feet between multi-family buildings.

SECTION 2f:2: As a special exception, the Board of Adjustment may permit a small apartment in conjunction with and attached to a single family dwelling in any district either as a conversion or new construction.

The purpose of this section is to allow for alternative housing by providing a small apartment in a single-family home which could be used by, but not limited to, elderly or handicapped family members, live-in nursing care, home companions, etc.

The Board of Adjustment shall grant the special exception only when the following conditions are met:

- 1) The proposal is not for a traditional duplex structure and the added apartment is smaller and an accessory to the main dwelling unit.
- 2) The use would not detract from the surrounding neighborhood.
- 3) The use shall not cause traffic, fire safety, or health problems on the lot or in the neighborhood.
- 4) The use meets all other requirements of this ordinance.

No site plan review is required for Article III, Section 2-2.

SECTION 2g: One lot with only 50 feet of street frontage may be subdivided from an existing parcel for the sole purpose of providing future access to the remaining backlands of the lot. Such a lot would be for future development purposes only and would be considered an UNBUILDABLE lot prior to completion of street construction. Such a lot could only be created if:

- 1) The lot to be created was greater than 30 acres;
- 2) The location of the 50-feet of road frontage provided adequate visibility and was suitably located for a future street intersection;
- 3) A conceptual plan for the future subdivision of such a lot was prepared and was acceptable to the Planning Board and met all other requirements of the subdivision regulations, including road layout, road profiles, and cross-sections.

Final approval of such a lot rests with the Planning Board. All conditions for its approval should be clearly shown on the plan and reflected in the lot's deed.

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)

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 – RESIDENTIAL CONVERSIONS: Structures existing at the time of adoption of this ordinance may be converted to multi-family structures in Residential B, Business A, and Business B districts, provided parking can be provided according to Article V, Section 3, and if all other conditions of the Site Plan Review are satisfied. These lots do not have to meet the minimum lot size requirements for water supply, septic disposal systems, fire protection and safety must be met. All converted dwelling units shall provide at least 600 square feet of total floor area per unit plus 120 additional square feet for each bedroom more than one, but not including porches, breezeways, garages, or unfinished basements. 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 4 – HOME OCCUPATIONS: Any home occupation shall be permitted as an accessory use in the district where allowed and shall be subject to site plan review and the following restrictions:

- 1) 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.
- 2) The home occupation is carried on by a family member and his or her relatives residing at the principal residence. The home occupation may be supplemented by not more than two outside employees.
- 3) 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.
- 4) 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.
- 5) A home occupation shall be allowed one sign, which shall not exceed six (6) square feet in total visible area. It shall be flat in nature and shall require a sign permit from the proper authority.

- 6) No installation or use of any mechanical or electrical equipment that is not customarily incidental to the practice of the home occupation or not normally part of a domestic household shall be permitted, with the exception of medical and dental equipment. Also, machinery, which is abusive to the residential atmosphere or that causes interference in radio and television reception, shall not be permitted.
- 7) The home occupation shall not display or create outside the building 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 vehicles including those of dwelling occupants in Residential A and B. No parking shall be permitted in the street or road.
- 8) The following are permitted uses, providing they qualify under the other criteria: physicians' and dentists' offices, professional offices of attorneys, accountants, and architects, studios, barber shops and beauty parlors, dressmaking, child care, bed and breakfast, consulting, financial analysts and advisors, pottery, painting, sewing and other fine arts, insurance and real estate sales.
- 9) Only articles made on the premises or customarily incidental to the home occupation shall be sold on the premises.
- 10) The 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 V – ADDITIONAL PROVISIONS:

SECTION 1 – 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 2 – 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 3 – 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 4 – 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 disposal system constructed according to qualified engineering recommendations approved by the Selectmen and in accordance with the standards set and enforced by the New Hampshire Department of Health and by the New Hampshire Water Supply and Pollution Control Commission. The Selectmen shall require four (4) feet from top of high water to bottom of leach bed per Section A2 WSPCC 1974 Guide.

SECTION 5 – 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.

SECTION 6 – DWELLING SIZE: All new permanent dwelling units of any kind, whether single detached or multiple attached shall provide at least 600 square feet of total floor area per dwelling unit plus 120 additional square feet for each bedroom more than one, but not including screened porches, breezeways, garages, or unfinished basement areas.

SECTION 7 – 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 8 – SIGNS

A. 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 shall be allowed as follows:

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

SECTION 9 – FLOOD HAZARD CONSERVATION DISTRICT:

SECTION 9a - 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 9b - DISTRICT BOUNDARIES: Pursuant to RSA 674:57, by resolution of the Town of Franconia's Board of Selectmen, all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Grafton, NH" dated February 20, 2008, together with the associated Flood Insurance Rate Maps dated February 20, 2008, are declared to be part of the Town of Franconia's Zoning Ordinance and are hereby incorporated by reference.

SECTION 9c - 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 9d - 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 9e - 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 9f - 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 9g – DEFINITIONS:

The following definitions shall apply only to this Flood plain 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 FFBM 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 10 - AIRPORT ZONING:

SECTION 10a: 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 10b: 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 10c: Aircraft shall be any machine supported for flight in the air by buoyancy or by the dynamic action of air on its surfaces.

SECTION 10d: 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 10e: 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 10f: Until additional regulations regarding permits and variances are adopted, those outlined in RSA 424:6 shall apply.

SECTION 10g: 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 10h: The Zoning Board of Adjustment shall be designated as the Board of Appeals pursuant to RSA 424:7, III.

SECTION 10i: Unless otherwise specified, those provisions as outlined in Chapter 424 of the New Hampshire Revised Statutes Annotated regarding Airport Zoning shall apply.

ARTICLE 11 - PLANNED UNIT DEVELOPMENTS

SECTION 1101. Objective

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. These developments are known as Planned Unit Developments or PUDs. These 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 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.

SECTION 1102. Provisions Governing the 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 20 acres. 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 detached, semi-detached, and attached dwellings; 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 therefore will require careful preparation of a comprehensive plan for the entire land development.
2. The maximum density in a PUD shall be one unit per one and one-half acre in the Residential B zone or two and one-half acres in Residential A 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 from the edge of public right of way shall be 25 feet. 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.

SECTION 1103. PUD 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 12 – MULTI-UNIT AND COMMERCIAL STRUCTURES: In the event a single structure contains more than one unit:

SECTION 12a: It shall be required that plans for all new multi-unit structures of three or more units, and significant commercial structures of over 12,000 square feet receive approval of the State Fire Marshall's Office. These plans are to be submitted to the local fire chief who will act as the liaison between the developer and the State Fire Marshall. The State shall forward their findings to the Board of Selectmen.

SECTION 12b: Plans for all commercial structures of less than 12,000 square feet shall be submitted to the Board of Selectmen for review. If the plan exceeds the ability of the local authorities, the town retains the right to hire a consultant and it shall be the responsibility of the developer to cover the costs incurred.

SECTION 12c: The ownership in multi-unit structures may be subdivided, sold, used, and resold only when such subdivision ownership of a single unit also includes a proportional undivided ownership interest in sufficient common land areas so that the total of all such individual and common interests in said structure and its land would meet all of the zoning density requirements of Article III, Section 2.

SECTION 12d: All conversions, multi-unit structures and commercial structures shall be subject to Site Plan Review Regulations.

SECTION 13 – TIMBER PROCESSING: Timber removal permitted in Residential A may be expanded to “timber processing” by application for an exception to the 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 14 – AQUIFER CONSERVATION DISTRICT:

SECTION 14a – 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 14b– 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 14c – 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 14d - 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 14e – 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 14f – 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 14g – SPECIAL PROVISIONS

No septic system leachfield can be located within 125 feet of any individual water supply or 400 feet of any community or municipal water supply.

SECTION 14h – 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 14f or for not meeting the special provisions as stated in Section 14g. 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 14i – 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 15 – WETLANDS CONSERVATION DISTRICT

SECTION 15a – 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 15b – DISTRICT BOUNDARIES

1. 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.

2. Relation to Other Districts

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

3. 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.

4. Application

Section 15 (Wetlands Conservation District) applies only to land requiring future Planning Board approval for subdivision or development.

SECTION 15c – 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 uses 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 15d – 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 15e – 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 15f – 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.

ARTICLE VI – ADMINISTRATION:

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.

ARTICLE VII – BOARD OF ADJUSTMENT:

There shall be a five-person 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

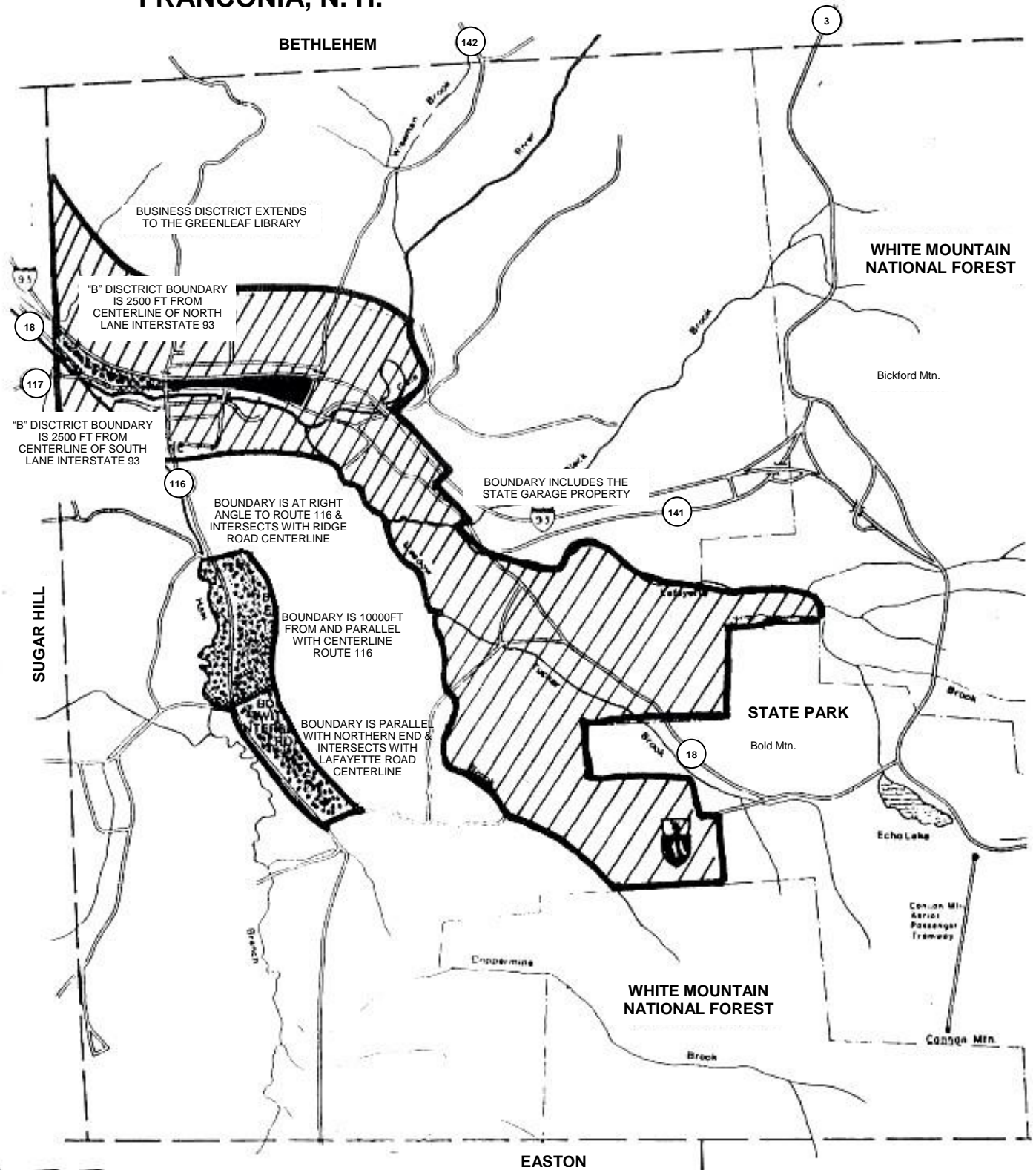
1. The Board of Adjustment shall have the authority to grant an exception to allow a Residential B use in Residential A District provided:
 - a. Maximum building site coverage is 10% and minimum lot size is three acres;
 - b. The introduction of such use shall not constitute a nuisance or be generally inappropriate for the neighborhood in which it is proposed to be located.
2. The 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 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 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.

ARTICLE VIII – SAVING CLAUSE

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

ZONING MAP FRANCONIA, N. H.



- BUSINESS DISTRICT A (1 - 1/2 acres)
- BUSINESS DISTRICT B (2 acres)
- RESIDENTIAL DISTRICT A (5 acres)
- RESIDENTIAL DISTRICT B (3 acres)



BASE MAP SUPPLIED BY N. H. DEPARTMENT
 OF RESOURCES & ECONOMIC DEVELOPMENT