

## **ARTICLE IV General Regulations**

### **§ 305-17. Number of structures per lot.**

For one-, two- and three-family dwellings in any zone there shall be only one principal structure per lot.

### **Section 305-18, Non-Conforming Uses, Lots, and Structures**

As approved by Ordinance # 07-11  
March 7, 2011 Meeting of the Franklin City Council

#### **~ 305-18. Nonconforming uses.**

##### **A. Nonconforming Uses:**

- (1) A nonconforming use is a use that is not permitted in the zoning district where the building or use is located. Such existing nonconforming uses are grandfathered uses for the purpose of this Zoning Ordinance.
- (2) A building associated with a nonconforming use may not be extended, expanded or changed, unless to a conforming use, except as noted in Section A(4), below.
- (3) A structure housing a nonconforming use that is damaged by fire, flood, explosion or other casualty may be reconstructed and used as before if such reconstruction has no greater coverage and contains no greater cubic content than before such casualty and is completed within one year of the initial damage. This may be extended for up to six additional months upon concurrence of the Planning and Zoning Administrator.
- (4) A nonconforming use may be changed to another non-conforming use subject to the issuance of a Special Exception issued by the Zoning Board, when the conditions of Section 305-4 are met and the Zoning Board of Adjustment finds that the proposed non-conforming use is no more objectionable to the surrounding neighborhood and has less adverse impact on the neighborhood.
- (5) In the event that any non-conforming use, conducted in a structure or on a lot, ceases or is abandoned, for whatever reason, for a period of one year or more, such non-conforming use shall not be resumed.

##### **B. Nonconforming Lots:**

- (1) A nonconforming lot is one which does not meet the lot area or frontage requirements, or the impervious coverage limitations of the Webster Lake Overlay District [Section 305-29.3].
- (2) An unimproved nonconforming lot, held in separate ownership from the

ownership of any adjoining lot may be used for the erection of a structure conforming to the use and setback requirements of the district in which the lot is located, even though the lot area and frontage are less than the minimum requirement of this Ordinance. If the setback requirements cannot be satisfied then a variance will be required.

(3) Two or more adjoining nonconforming lots held in common ownership may be required to be merged for the purposes of the development of either of the subject lots.

### C. Nonconforming Structures

- (1) Nonconforming structures are ones that do not meet the setback requirements of Section 305-14, Yard and Area Requirements or Section 305-15, Height Requirements. The distance between the lot line and the nearest corner or point of the existing structure creates the pre-existing line of encroachment.
- (2) Individual and separate residential units that are part of a condominium association shall be considered non-conforming for the purposes of these provisions since more than one residential unit is located on the lot.
- (3) Any alterations, additions, changes, etc. to a non-conforming structure may only be done in conformance with the issuance of all applicable building permits.
- (4) Except as otherwise provided in Section 305-18.C(6) of this Ordinance, any nonconforming structure damaged by fire, flood, explosion or other casualty, or a nonconforming structure removed through the issuance of a demolition permit, may be reconstructed and used as before if such reconstruction has no greater coverage, the reconstructed structure maintains the same setbacks as the original structure or is less non-conforming than the original structure, and contains no greater cubic content than before such casualty or demolition and is completed within one year of the initial damage or demolition. This may be extended one-time for up to six additional months upon approval of the Planning and Zoning Administrator.
- (5) The language of Section C.4, above, notwithstanding, if the lot on which the structure and foundation is being demolished and removed conforms to the lot area requirements of the zoning district, then the structure being re-built shall conform to the appropriate yard setback requirements. If there is some “practical difficulty” [for example, existing ledge or wetlands, the existence of easements, or steep slopes] which does not allow the re-built structure to be built in a location that meets the setback requirements then the Zoning Board may approve, through the issuance of a Special Exception, an alternative site.
- (6) Additions, including additions to a non-conforming structure being reconstructed

pursuant to Section 305-18C(4), may be added to a nonconforming structure under the following circumstances [See Appendix 2 for examples]:

- a. The addition(s) may be constructed by right through the issuance of a building permit if one or more of the following conditions are met:
  - i. The proposed addition meets the zoning district's setback requirement(s);
  - ii. The additional height and/or subsequent increase in volume is a result of the compliance with applicable building codes for design issues including but not limited to ceiling height, the dimensional requirements for the lumber, or the height of the sill above exterior grade.
  - iii. Dormers may be added to an existing second floor living area as long as the height does not exceed the height of the existing roof line and the depth does not extend beyond the pre-existing line of encroachment.
  - iv. The addition is single story [first floor] 200 square feet or less in size and is not located closer to the lot line than the pre-existing line of encroachment.
- b. If the proposed addition does not satisfy the restriction of Section (6)(a) above the addition may be allowed through the issuance of a Special Exception if the following conditions [as applicable] are met and the general Special Exception criteria are satisfied:
  - i. The proposed single story, first floor, addition is 480 square feet or less in size and is not located closer to the lot line than the pre-existing line of encroachment.
  - ii. The proposed second story addition is not located closer to the lot line than the pre-existing line of encroachment, and must be no less than 75% of the required setback.
- c. The provisions of Sections (6)(a) and (b) above notwithstanding, the Planning and Zoning Administrator may issue an administrative decision that a building permit would be issued for certain modifications/additions to non-conforming structure if it is determined that the modification constitutes a natural expansion of the structure. In making this determination the following tests must be satisfied:
  - i. The proposed modification reflects the nature and purpose of the existing use and structure.

- ii. The proposed modification reflects a different manner of utilizing the same use/structure and does not constitute a use/structure different in character, nature and kind.
- iii. The proposed modification does not create any new non-conformity or otherwise violate any other provisions of the Ordinance.
- iv. The proposed modification does not have a substantially different effect or impact on the abutting property or the neighborhood.

The purpose of this section is to insure that modifications that meet the tests above can be accomplished without undue regulatory hurdles for the property owner. Any Administrative Decision issued under this section shall be provided to the abutters at least 30 days prior to the issuance of the building permit and such a decision is subject to appeal per the provisions of Section 305-37 of this Ordinance, and the Zoning Board of Adjustment may either approve the Decision or determine that a Special Exception or a Variance, as applicable, is required. The term abutter shall include any property owner adjacent to, or across the street from, any easement or right-of-way that serves the property under consideration for the proposed improvement.

- d. The provisions of sections (6) (a-c) above notwithstanding, any addition that results in the loss of off-street parking for a structure will require a Special Exception. The determination of whether the availability of parking is impacted will be an administrative decision of the Planning and Zoning Administrator.

#### **§ 305-19. Off-street parking.**

Off-street parking spaces shall be provided in accordance with the specifications in this section in any district whenever any new use is established or existing use is enlarged. Where municipal parking is available within 400 feet of a structure or use, the specific parking requirements may be determined on a case-by-case basis by the Zoning Board of Adjustment. Where one structure or lot has combined uses, the requirements for parking shall be met separately for each use.

Use	Required Number of Spaces
Residential (one-, two- and three-family dwelling)	2 per dwelling unit (parking spaces in a driveway may be within front, side or rear yard setback areas)
Multifamily residential	2 per dwelling unit
Church or school	1 per 6 seats in principal assembly room
Private club or lodge	1 per 6 seats in principal assembly room
Theater	1 per 6 seats

Hospital and nursing home	1 per 3 beds and 1 for each 2 employees on the maximum working shift
Professional office, business service, wholesale warehouse and medical clinic [Amended 9-14-1998 by Ord. No. 98-4]	1 for every 250 square feet of floor space
Retail business and personal service establishment	1 for every 200 square feet of total gross building area
Bowling alley	3 for each alley
Funeral home	1 for each 6 seats
Recreational assembly place, e.g., dance hall and nightclub	1 per 4 seats
Restaurant	1 per 4 seats, plus 1 for every 2 employees
Industrial	2 for each 3 employees on the maximum working shift
Motel, hotel, rooming and lodging house and bed-and- breakfast establishment	1 for each sleeping room, plus 1 per each 2 employees

**§ 305-20. Parking and loading specifications.**

All required off-street parking and loading areas shall be located either within structures or subject to the following specifications:

- A. They shall be effectively screened on each side which faces or adjoins the front, side or rear property line of any residential lot.
- B. All parking and loading areas and access driveways thereto shall be paved with a dust-free surface, which is defined as an asphalt, concrete or comparable Municipal Services Department recommended surface, and have an on-lot stormwater disposal system which is reviewed and recommended to the Planning Board by the Municipal Services Department. When and where appropriate, curbing shall be granite and be subject to review and recommendation by the Municipal Services Department and approved by the Planning Board.
- C. A guard rail, fence or appropriate other means shall be used so that vehicles do not overhang the adjoining property.
- D. Illumination fixtures, if any, shall be so arranged as to direct the light away from streets and away from adjoining premises.
- E. There shall not be any storage of material or equipment in the parking area except temporarily as part of approved building construction operations.
- F. Parking shall not be located within the required front or side yard setbacks in any

residential district (with the exception of parking in driveways for one-, two- and three-family dwellings, which may be within the setbacks). In other districts, parking in the front yard area shall not be closer than 10 feet from any street right-of-way lines.

- G. Driveways shall be at least 30 feet from the point of intersection of the curblines of intersecting streets.
- H. Minimum parking design standards. The following table does not apply to parking areas for one-, two- and three-family residences where parking can be accommodated within the driveway.

<b>Minimum Parking Design Standards</b>			
<b>Angle To Drive</b>	<b>Minimum Stall Width (feet)</b>	<b>Minimum Stall Length (feet)</b>	<b>Minimum Aisle Width (feet)</b>
0°	8	22	15
45°	9	18	15
60°	9	18	18
90°	9	18	24

**§ 305-21. Manufactured housing; manufactured housing parks; manufactured housing subdivisions.** [Amended 9-14-1998 by Ord. No. 98-4; 6-5-2006 by Ord. No. 10-06]

- A. Operation of a manufactured housing park.
  - (1) Permit required. The owner/operator of a manufactured housing park shall obtain annually a permit from the City, through the Planning and Zoning Administrator, to maintain and operate said housing park. The application for the permit shall be filed on or before April 1 of each year with the Planning and Zoning Office. Said application shall contain a listing of all manufactured houses contained within the park and the address of each unit, along with a plan showing the location of the units. An annual permit fee of \$5 per living unit shall accompany the application. [Amended 12-7-2009 by Ord. No. 06-10]
  - (2) Within 60 days from the receipt of the application, the Planning and Zoning Administrator shall, and is authorized to, inspect the housing park for the purpose of determining whether or not the park is being operated in conformance with all applicable City codes and regulations, including, but not limited to, property maintenance. The Administrator may be accompanied by any other City Inspector or Code Enforcement Officer. If violations of any City code or regulation are found, then the owner/operator shall be given written notice of the violation. The code or regulation violation shall be

remedied within 30 days or other time frame as directed by the Administrator or the Inspector.

- (3) No manufactured housing park shall be altered, extended, expanded, or changed except in compliance with Subsection C below and all other applicable sections of the Franklin Zoning Ordinance.

B. Manufactured housing subdivisions.

- (1) No manufactured housing subdivision shall be constructed without first obtaining a permit from the Planning Board. An application for said subdivision shall be filed with the Board in conformance with all requirements and provisions of the Franklin Zoning Ordinance and the Subdivision Regulations.
- (2) The lots and structures within manufactured housing subdivisions shall conform to the lot and yard requirements of § 305-14.

C. Manufactured housing parks. No manufactured housing park shall be constructed without first obtaining a permit from the Planning Board. An application for said subdivision shall be filed with the Board in conformance with all requirements and provisions of the Franklin Zoning Ordinance, the Franklin Site Plan Regulations and the Franklin Subdivision Regulations. The above regulations notwithstanding, manufactured housing parks shall meet the following design standards:

- (1) They shall be located on a site with a minimum of 10 acres.
- (2) The number of lots created within the park shall not exceed the number of lots allowed under the provisions of § 305-14.
- (3) A buffer strip of 75 feet along public roads and of 50 feet along rear and side property lines shall be created. A landscape plan for the entire park shall be submitted, including landscape treatment proposed for buffer strips.
- (4) Each manufactured housing lot shall have a minimum area of 10,000 square feet and shall have a minimum frontage of 75 feet on a park road.
- (5) Setbacks on manufactured housing lots shall be as follows:
  - (a) Minimum depth of front yard: 20 feet.
  - (b) Minimum depth of side yard: 15 feet.
  - (c) Minimum depth of rear yard: 15 feet.
- (6) At least 7% of the gross land area in a manufactured housing park shall be reserved as a common area for recreation and other open space purposes. Each park shall provide at least one common area restricted to the use and enjoyment of the residents of the park. No single common area shall contain less than 15,000 square feet. Where more than one area is provided, the areas shall be spaced and located in the park in such a manner that will provide maximum usefulness for park residents. The land included within common

areas shall be of such character that it is capable of supporting recreational use and shall not include land with poor drainage or excessive slope or land that is subject to flooding.

- (7) Every manufactured housing park shall have access to a public street by means of a private roadway. The private roadway(s) within the park shall be constructed in accordance with the following minimum standards. (If the Planning Board determines that the standards above will not provide for adequate public safety and convenience due to issues with line of sight, slopes, etc., then the Board reserves the right to require different standards.) [Amended 12-7-2009 by Ord. No. 06-10]
  - (a) Right-of-way: 30 feet.
  - (b) Traveled way: 18 feet.
  - (c) Bank-run gravel subbase: 12 inches.
  - (d) Crushed gravel base: three inches.
  - (e) Bituminuous pavement: two inches.
- (8) Two off-street parking spaces shall be provided for each manufactured housing lot. Each parking space shall be paved and graded to provide drainage away from the manufactured housing unit in conformance with an overall drainage plan. Each off-street parking space shall have a minimum width of nine feet and a minimum length of 18 feet. The Board may reduce the number of parking spaces upon the submission of a waiver request by the applicant.
- (9) All utilities in manufactured housing parks shall be placed underground.
- (10) Manufactured housing in parks shall have an enclosure around the full perimeter of the structure (skirting).
- (11) An accessible, adequate, safe and potable supply of water shall be provided in each manufactured housing park. When City water is not available, the development of any independent water supply to serve a manufactured housing park is the responsibility of the developer and shall comply with the current regulations of the New Hampshire Department of Environmental Services, Water Supply and Pollution Control Division. The City reserves the right to require the owner to provide an approved fire protection water supply. [Amended 12-7-2009 by Ord. No. 06-10]
- (12) All plumbing, heating, sewage, water supply and electrical systems shall comply with the applicable City and state codes and regulations. All water and sewer systems must be approved by the City prior to the installation of any pipes, lines or associated equipment.
- (13) The storage, collection and disposal of refuse in a manufactured housing park shall not create a health hazard, rodent harborage, insect breeding areas, accident hazards or air pollution. All refuse and garbage shall be stored in flytight, watertight, rodent-proof containers which shall be provided in



sufficient number and capacity to prevent any refuse from overflowing. If container racks or holders are provided by the manufactured housing park owner or operator, they shall be located not more than 150 feet away from any manufactured housing space. All dumpsters shall be screened or fenced.

D. Manufactured housing on individual lots.

- (1) Any owner of a manufactured housing unit installed on land in the City of Franklin as of the date of original enactment of this chapter (1971) desiring to replace his or her present home on the same site by the installation of replacement manufactured housing shall be permitted to do so upon receipt of a building permit from the Planning and Zoning Administrator.<sup>1</sup>

E. Minimum quality standards. [Amended 12-7-2009 by Ord. No. 06-10]

- (1) The installation of any manufactured housing unit, whether in a park, subdivision, or on an individual lot, shall conform to all requirements outlined in RSA Chapter 205-D, Manufactured Home Installation Standard, as amended. Further, the unit shall have an enclosure around the full perimeter of the structure.
- (2) All manufactured housing units installed on undeveloped or unoccupied lots after passage of this chapter must meet the most recent specifications and standards established by the United States Department of Housing and Urban Development. An existing unit which fails to meet the applicable HUD standards may be replaced with a newer unit which also fails to meet these standards upon submission of a request to, and approval by, the Planning and Zoning Administrator, in consultation with the Code Enforcement Officer. Approval may be granted upon a determination that the replacement unit is a substantial improvement (care and condition, upkeep, life safety, energy efficiency, and related factors) over the older unit. The request shall include photo documentation of the existing and replacement units, and the Administrator may require an inspection of the units if deemed necessary. While no formal age difference between the two units is being defined, a difference of at least 15 years will be taken into consideration. If the Administrator denies the request then an appeal may be taken to the Zoning Board of Adjustment under the procedures outlined in § 305-35 of this chapter.

**§ 305-22. Downtown Revitalization District.** <sup>2</sup> [Added 8-6-2007 by Ord. No. 02-08]

- A. Authority. These provisions are adopted pursuant to the applicable sections of RSA 672 through 677, and specifically RSA 674:21, Innovative Land Use Controls.
- B. Preamble. The downtown mill district area has been an important part of the fabric of the Franklin community for almost 100 years. As industry blossomed and grew

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1. Editor's Note: Former Subsection D(2), which immediately followed and set forth foundation requirements, was repealed 12-7-2009 by Ord. No. 06-10.

2. Editor's Note: Former § 305-22, Campgrounds and travel trailer parks, was repealed 4-3-2006 by Ord. No. 07-06.

so did the vitality of the downtown. Small businesses flourished and social, civic, and governmental interaction was an everyday occurrence. But as the mills closed or relocated elsewhere and the workers were displaced, the vitality of the overall downtown area suffered. The overall goal of these zoning and land use regulations is to create land use regulations and opportunities that will be the foundation of an effort to restore that vibrancy to the downtown.

C. Purpose. The purposes of these provisions are intended to:

- (1) Recognize that the jurisdictional area of this district is important to the overall economic vitality of the City of Franklin and the region as a whole.
- (2) Recognize that the jurisdictional area is important to the overall historic nature and fabric of the City.
- (3) Provide a framework for the creation of business, commercial, and residential opportunities and uses within the district, and encourage high quality and sustainable economic development.
- (4) Create guidelines that will provide for diversity of housing options relative to the size of the proposed dwelling units to insure that different housing needs are met.
- (5) Promote the reuse of the historic mill buildings insuring that a diversity of uses is allowed.
- (6) Encourage multi-use buildings that contain residential, commercial, retail, and business uses.
- (7) Recognize that market forces impact how and when development occurs and the types of developments that are planned as a result of a changing economy, but at the same time recognize that the long-term interests of the City and its residents for productive growth that helps to stimulate the local and regional economy are an utmost concern.
- (8) Insure that the proposed uses are compatible and will not create concerns or issues with public health, safety, or welfare.
- (9) Insure that the issues and concerns of vehicular access and egress, traffic management, and parking are adequately and appropriately addressed.
- (10) Refocus attention on the significant natural resource of the Winnepesaukee River and encourage efforts that open up access to and enjoyment of the river.
- (11) Encourage efforts to redevelop the existing mill buildings and other buildings within the district so as to promote energy efficiency, the use of sustainable resources, and intelligent use of the land and associated natural resources.
- (12) Encourage and promote cooperation between the City government, property and business owners, and developers on development options and opportunities, especially in the area of parking and the use of municipal properties.

- (13) Create a regulatory framework that both complements and carries out the goals of the Franklin Master Plan, the overall provisions of the Zoning Chapter, and other applicable City Codes.
- D. Creation of District; jurisdictional area. To create a mechanism to foster and implement the purposes above, the Downtown Revitalization District (hereinafter DRD) is created. The jurisdictional area of the district is as shown on the associated Boundary Map, which is incorporated as part of this Zoning chapter. The DRD does include all of the City's Odell Park. The area shown is a portion of the Franklin Falls Historic District.
- E. Applicability and relationship to other zoning provisions. These provisions create an overlay district for the jurisdictional area and are intended to supplement, restrict, or supersede the provisions of the underlying zone. In the sections below, the specific language of any individual section will serve to provide notice as to the exact nature of the relationship between the overlay district and the underlying zoning.
- F. Permitted uses; nonpermitted uses; site plan review; change of use.
- (1) The permitted use table below, which supersedes the permitted use table contained in the Zoning Chapter (§ 305-13), outlines the allowed uses within this District. Any use designated with a "P" is a permitted use. If the use is designated as requiring a special use permit (SUP), the general and/or specific performance standards outlined in these provisions shall apply, as applicable. Any use not listed is not permitted, with the exception that uses determined by the Planning and Zoning Administrator to be similar to and consistent with a permitted or SUP use are permitted through the appropriate permitting mechanism. One criterion to be employed by the Administrator in making such a determination is whether or not the chapter at § 305-13 clearly makes a specific proposed use for the district a nonpermitted use for the underlying zone. Any appeal of said determination may be filed with the Zoning Board of Adjustment consistent with applicable RSAs and the Zoning Chapter.
  - (2) Site plan review will be required for any use that meets the thresholds of Chapter 402, Site Plan Review. If a SUP is required for any proposed use, then the hearing for the site plan and the SUP may be held concurrently.
  - (3) When a change of use permit, as outlined in § 305-31A(4) of the Zoning Chapter, is required, then the permit application shall demonstrate the proposed use will comply with all applicable provisions of the Zoning Chapter, including those of the Downtown Revitalization District.
  - (4) Individual areas within the larger mill buildings may be used as the location of accessory storage and warehouse space for the established businesses within the district.

Permitted Use Table			
Single- and two-family units [See Subsection I(1).]	P	Day-care center	SUP
Multi-family Units	SUP	Light industry and research and development	SUP
Bed-and- breakfast establishments; inns; hotels	SUP	Home occupations (See Subsection J.)	P/SUP
Commercial school	SUP	Individual retail use greater than 5,000 square feet in size	SUP
Retail business	P	Nursing home; independent or assisted living facility	SUP
Personal and professional service	P	Private school	SUP
Personal convenience service	P	Night club	SUP
Restaurants and eating/drinking establishments	<b>P*</b>	Recreation and amusement facilities	SUP

G. Performance standards for residential and nonresidential special use permits. As noted on the Permitted Use Table in Subsection F above, certain uses require a special use permit [SUP]. The performance standards by which the Planning Board will review and judge a SUP application are outlined below. The granting of a SUP is a discretionary action on the part of the Board, and while guided by these performance standards, the decision to approve or deny such a permit will be dependent upon specific site and building conditions analyzed in relationship to the specific design, development, and operational management of the proposed use and the potential for impacts of the proposed use on the overall character of the district. The following standards shall apply, as determined by the Board to be applicable, to all SUP reviews:

- (1) The specific character of the proposed use is appropriate for the mixed-use, downtown and pedestrian-oriented environment.
- (2) The specific use and its size, location and design will not distract from, or have a negative impact on, the remainder of the DRD.
- (3) The specific use will support, promote, and conform to the purposes of the overall chapter.
- (4) The specific and unique needs of the proposed use will function safely and in an environmentally sound fashion.
- (5) The traffic (both customers and truck/delivery vehicles) generated by the proposed use will not create adverse impacts for the specific building and the overall neighborhood.

- (6) The proposed use will not utilize any gases, liquids, solids or any other materials used in any phase of the processing, production, or packaging phase, or generate any material that is classified by the State of New Hampshire or the federal EPA as a hazardous material or waste.
- (7) If the proposed use will operationally involve any second shifts, or will be open past 9:00 p.m., then the parking requirements for said use will not be allowed to utilize any shared or overlapping parking with any residential uses in the subject building.
- (8) The special use permit plans for any type of day-care, nursing, sheltered care, or related assisted living facility shall demonstrate that safe and secure outside facilities (play areas, decks or patios, gazebos, grassed sitting areas, etc.) are available and accessible to the clients or residents, as applicable, of the facility.

H. Building codes; general permitting criteria; building setbacks.

- (1) The work associated with the construction of any new building or the alteration to any existing building, including but not limited to the creation of new residential dwelling units, must conform to all applicable building and fire prevention codes and regulations of the City. The City reserves the right to utilize the provisions of the International Existing Building Code, or the provisions of the International Building Code, 2000 version (as revised) relative to historic buildings (Chapter 34 of the 2000 IBC), for alterations to any existing building, provided that the proposed work does not compromise, in the opinion of the Fire Chief and the Code Enforcement Officer, the life safety requirements for fire prevention, access and egress, and associated concerns. Other similar building codes may be utilized at the discretion of the Fire Chief and the Code Enforcement Officer.
- (2) All construction and alteration work, including the installation of any new or modified heating systems, fire suppression systems, changes to the interior layout of any specific space, and related activity, must be performed under the issuance of a building permit.
- (3) As outlined in the Franklin Heritage Commission Regulations, certain work, including, but not limited to, all new construction, the exterior alteration of existing buildings, the removal of any buildings or portions thereof, or the placement of new or altered signage, will trigger a permitting process by the Franklin Heritage Commission. Any property owner or prospective applicant is to consult the regulations and policies of the Heritage Commission to insure that the proposed work will be designed in conformance with all applicable requirements.
- (4) The costs of any outside review of any phase (legal, engineering, surveying, traffic, etc.) of a development proposal shall be borne by the owner/developer. The Franklin City Council may elect, through the appropriation of City funds, to participate in the cost sharing of certain studies, reviews, investigations, etc.

(for example a traffic study).

- (5) The provisions of § 305-14, Lot and yard requirements, of the Zoning Chapter notwithstanding, the front, side, and rear yard setbacks for any new building will be determined as part of the site plan review process. In most cases, but dependent upon site conditions and the proposed use, the placement of a building that fronts directly on Central Street will utilize a setback consistent with the abutting properties or the general setback for the affected block. Any building existing at the time of adoption of this section and demolished, removed due to general deterioration, or damaged by fire or other calamity may be rebuilt on the same footprint.
- (6) For any commercial, residential, or mixed-use building, all dumpsters and similar trash receptacles shall be screened by solid wood fencing, or other acceptable alternative, and all trash shall be disposed of by a private, nonmunicipal provider, unless so directed or allowed by the City, through the City Council or the Municipal Services Director through a policy or other similar written approval.

I. Residential use: density, permitting, and performance standards.

- (1) No stand alone single- or two-family dwelling units are allowed. Single- and two-family residential units are allowed as part of a multi-use building.
- (2) No residential living areas shall be allowed on the first or ground floor area of any building with frontage on Central Street or Church Street, Memorial Street south of Canal Street, or Franklin Street north of Ayles Court.
- (3) For the buildings located on Tax Map 117, Lots 142, 143, 153, and 365 (as designated by the Assessor's Office at the time of adoption or as modified by any subdivision, lot merger, or other similar action) no less than 40,000 total square feet of floor space between all of the lots referenced above shall be dedicated to commercial, business or retail use.
- (4) In order to create and allow for a variety of housing types and options, the following provisions shall apply:
  - (a) For any proposal to create more than 10 multifamily dwelling units in a new or existing building, no more than 33% of the units shall be less than 720 square feet in size, and no more than 5% of the units shall be three bedrooms or larger in size;
  - (b) For any proposal to create between three and 10 multifamily dwelling units in a new or existing building, no more than two of the units shall be less than 720 square feet in size, and no more than one unit shall be three bedrooms or greater.
- (5) The creation of any new residential units in a new or existing building shall trigger the need to comply with the performance standards below, in addition to the SUP performance standards as outlined in Subsection G.

- (a) Parking shall be provided in conformance with the provisions of Subsection L below.
- (b) No outside storage of any goods or materials is allowed, except items such as chairs and tables may be located on decks, balconies, patios, or other similar sitting areas. An area for outdoor barbecuing may be approved through the site plan or SUP. No individual grills of any type are allowed on the decks or balconies of any individual unit
- (c) All new construction must meet or exceed the minimum state requirements for energy efficiency.
- (d) For any project which will create residential units in the buildings located on Tax Map 117, Lots 142, 143, 153, and 365 (as designated by the Assessor's Office at the time of adoption or as modified by any subdivision, lot merger, or other similar action), the site plan or SUP permit plan shall include for the provision of common community space that can be utilized by the residents of the subject building; for example the creation of an indoor or outdoor sitting or lounge area, a picnic area, or patio area with tables or benches. Such area shall, to the greatest extent possible, front on or overlook the abutting river.

J. Home occupations. In order to provide for increased economic and lifestyle flexibility for the persons residing in this district, the integration of residential and business uses in the dwelling units is permitted as outlined and conditioned below. This type of unit-oriented mixed-use is sometimes called "live-work." These specific provisions supersede § 305-25, Home occupations, of the Zoning Chapter.

- (1) Occupations such as accountants, mental health providers, attorneys, business or computer consultants, tax preparers, appraisers, architects, engineers, secretarial service providers, and seamstresses are allowed with a permit from the Planning and Zoning Administrator.
- (2) For any proposed business not listed above, the Administrator shall determine whether or not the proposed use is similar to and consistent with the types of businesses listed. Any appeal of the determination of the Administrator shall be to the Zoning Board of Adjustment.
- (3) All of the occupations listed above will generally be owner-run businesses with no employees. If one employee is proposed, this should be detailed in the application to the Administrator, and consideration will be given by the Administrator to the adequacy of the space and the provisions for safe and healthy working conditions, and the potential for nuisances such as machine noise, excessive foot traffic, and other similar impacts.
- (4) Other than standard home-office copy machines and printers, no office equipment using any chemicals, solutions, liquids or other materials that cause odors or noise above the level of acceptable office conditions is permitted.
- (5) Occupations such as painters, artists, potters, and music teachers may be

permitted through the issuance of a special use permit from the Planning Board. In reviewing the application, the Board will utilize the special exception criteria listed in § 305-4 of the Zoning Chapter, the performance standards outlined in Subsection G above, and the following performance standards:

- (a) The applicant shall demonstrate that the proposed activity will be conducted in such a fashion so as to insure that noise, fumes, odors, or dust do not impact any other residential unit in the subject building.
  - (b) The individual unit is located within the subject building so that the delivery of materials will not adversely impact the other residents.
  - (c) If the proposed use will utilize any cutting, grinding, welding, chiseling or similar actions then the individual dwelling unit must be located within the building so that direct access to the ground floor is available and all materials can be delivered to or removed from the unit through this access point.
  - (d) The Board reserves the right to condition (hours of operation, location within the building or the individual unit, screening or separation from living areas, ventilation, sound-proofing, etc.) any proposed use to insure that it is carried out in such a manner to protect the health, safety, and welfare of the applicant and the other residents in the building and the surrounding area.
  - (e) If the Board finds that the proposed use cannot be conducted so as to protect the interests outlined above, or the location is not appropriate for the proposed use, then it may deny the application.
- (6) The provisions of Subsection J(5) above notwithstanding, the Planning Board may issue a blanket special use permit for the home occupations listed in Subsection J(5), and any other similar occupations as determined by the Board, provided that the developer/owner presents to the Board documents that demonstrate the establishment of a condominium or other building association that provided for a mechanism for monitoring and enforcing conditions to prevent the creation of nuisance condition for residents in the subject building.
- (7) None of the provisions in this section shall restrict or prohibit any occupant from utilizing separate units for residential and nonresidential purposes and having these units connected in an approved manner (first floor for business use and the second floor immediately above for residential use). For this type of scenario, additional employees beyond what is discussed above are allowed.
- K. Density bonus for LEED (green buildings) or historic restoration and/or renovations. Through the special use permit process, the Planning Board may award bonuses, up to 20%, to permit an increase in the number of allowed residential units in a specific building if the building as a whole is renovated or constructed in



accordance with accepted and recognized LEED (Leadership in Energy and Environmental Design) criteria, or with accepted and recognized historic restoration criteria. The following performance standards, as applicable, shall be satisfied.

- (1) The design and planning work for the project shall be carried out by a LEED accredited professional.
- (2) A project for new construction shall be designed and constructed to be eligible for at least 45 LEED-NC (new construction) points. A project for the renovation of an existing building shall be designed and constructed to be eligible for at least 55 LEED-EB (existing building) points.
- (3) The design and planning work for the historic restoration shall be carried out by a professional deemed suitable and qualified by the Planning Board or the Heritage Commission, as applicable. To determine the qualifications, the applicant shall present a statement of qualification for the professional along with a listing (and sample photographs if available) of all restoration projects which the person or firm has worked on in the last three years.
- (4) The interior and/or exterior restoration work shall be designed to protect the historical integrity of the subject building. The Planning Board shall consult with the Heritage Commission on the determination of the suitability of the restoration consultant and the overall design and the extent of the restoration efforts.
- (5) The number and size of the allowed units used to establish the starting point for a density bonus shall be determined through the SUP permitting process.

L. Parking.

- (1) For any building with residential dwelling units, a minimum of 1 1/3 parking spaces per unit is required. The residential parking shall be provided on the privately held land of the owner/developer or on leased land. The provisions of any such lease shall be reviewed, and if appropriate, approved by the Planning Administrator or the Planning Board during the course of a site plan review, special use permit process, or the issuance of a building permit. These types of parking spaces shall not be more than 300 feet from the subject property, but this distance may be waived or modified by the permitting person or Board based on a determination that the leased parking spaces are easily and safely accessible by the residents of the subject units.
- (2) The requirement for 1 1/3 spaces per unit notwithstanding, the Planning Board through the special use permit may authorize a project to be phased in such a manner so that the first phase utilizes one space per unit with a condition of the permit being that a review and analysis of the parking be conducted before permits are granted for subsequent phases to insure that one space is determined by the Board to be sufficient. Alternately, the Board may issue a special use permit for an entire building or development allowing one space per unit with a condition that a review be conducted in a specified time frame and if the number of spaces is found to be insufficient then the necessary

additional spaces are created or otherwise constructed in the areas previously shown on the approved plan.

- (3) Through the special use permit process, the owner/applicant may request a reduction in the minimum number of required spaces. Such a request shall be accompanied with evidence that the lease agreements (for a rental building) or the condominium instruments (for a condo-ownership building) contain restrictions on the number of permitted vehicles that can be housed on the site by the renters or the condominium owners units within the subject building.
- (4) Parking requirements for any nonresidential uses shall conform to § 305-19 of the Zoning Chapter. Where municipal parking (not including any overnight parking) is available within 400 feet of the proposed use, then these municipal spaces may be counted towards the total number of nonresidential spaces required. The Planning Board reserves the right to deviate from the parking requirements in the Zoning Chapter based on a review and approval of a site plan or SUP and taking into account project specific issues and circumstances
- (5) For multi-use buildings or projects containing both nonresidential and residential uses, the total number of required parking spaces for each separate and distinct use shall be provided.
- (6) The preceding subsection notwithstanding, the owner/developer of a multi-use building containing both residential and nonresidential uses may utilize up to 1/3 of the parking spaces required for the residential component towards the required number of nonresidential spaces.
- (7) For certain uses, such as a nursing home, the number of required parking spaces may take into account the age or other characteristics of the residents, and the Board may approve a decrease in the number of overall required spaces.
- (8) No building permit, occupancy permit, or change of use permit will be issued until such time as conformance with the parking requirements is documented through the submission of a parking plan showing the location of all proposed spaces.
- (9) No unregistered vehicles shall be kept at any time in the parking spaces created for, and allocated to, the residential or nonresidential uses within the district. And no trailers or trailer-type devices shall be kept in any parking space or hitched onto any passenger car, truck, or other vehicle located in any such parking spaces. No off-road vehicles (including but not limited to snowmobiles or four-wheelers, and associated trailers), RVs, campers, and similar vehicles are to be stored or kept in any parking areas.
- (10) Enclosed or covered parking areas may be approved by the Planning Board through the site plan review or SUP process. Existing buildings may be used for enclosed parking areas when allowed by the Planning Board through the site plan or SUP review process as long as the owner/developer is able to demonstrate through an engineered site plan that the design and layout of the

proposed enclosed parking area is satisfactory to accommodate safe and controlled traffic flow and conforms to all building and fire codes relative to issues including, but not limited to, public health and safety, access and egress, ventilation and air quality, and fire suppression and separation.

- (11) In lieu of separate parking plans for individual buildings, two or more landowners/developers may propose to the Planning Board, through a joint site plan or SUP application, a master parking plan for their land within the district. The City of Franklin may be a partner in such an application, and the role of the City may include, but is not limited to, the leasing or other permitting of City property to satisfy the parking requirements for specific buildings, or the creation of additional overnight parking spaces on City-owned land.
- (12) All site or special use permit plans shall demonstrate that appropriate areas for snow removal and storage are available.

M. Signage.

- (1) Per the Franklin Heritage Commission's Regulations, no neon, electronic or internally illuminated signage is allowed in the district.
- (2) All other requirements, including, but not limited to, size, number of signs, locations, and height, of § 305-24, Signage, of the Franklin Zoning Ordinance shall apply. The Planning Board reserves the right to deviate from the requirements in the Zoning Chapter for signage based on a review of the proposed project through the site plan or SUP process. The purpose of such a deviation would be to create signage that better reflects the historical nature of the area, reduce clutter created by too many signs or too large signs, or to create different types of signage (a directory type of sign for example) that is more appropriate for the proposed use of a building or joint project.
- (3) The City may participate in the placement on City property of directional or directory sign(s) for the purposes of identifying businesses, commercial or residential uses located in buildings not easily visible from Central Street; for example, a directory sign located on the intersection of Central Street and Smith Road. The City reserves the right to condition the size, color, and design of the proposed signage.

N. Pedestrian performance standards.

- (1) All parking areas shall be designed so that pedestrians can easily and safely access the subject commercial or residential building.
- (2) All new or reconstructed sidewalks shall be designed to be barrier-free and built to comply with all state and federal ADA standards.
- (3) Pedestrianways between parking areas and the entrances to the subject building shall be delineated with pavement markings, pavers or brick, or other similar treatments to enhance pedestrian safety and comfort.

O. Lighting performance standards.

- (1) Parking areas for both commercial and residential buildings shall be designed with lighting that provides for a safe pedestrian environment.
- (2) All lighting shall be designed with cut-off fixtures that do not allow any light dispersion or direct glare to shine above a ninety-degree or horizontal plane from the base of the fixture.
- (3) The City encourages the use of energy efficient lamps for all outdoor applications.
- (4) The design standards for lighting shall be per the site plan regulations or as directed by the Board through the site plan or SUP permitting process.

P. Landscaping.

- (1) The site plan or SUP application shall include details on proposed landscaping. The purpose of and reason for providing landscaping for this district is to enhance the aesthetics of the area, which helps to promote and support enhanced residential and commercial activity.
- (2) The type and extent of landscaping will vary from building to building depending on the setbacks, the relationship between existing paved areas and available space for nonparking uses, and the location of the property in the district. The types of available landscaping options includes, but are not limited to, planting areas adjacent to the building, parking or sidewalk areas, window boxes, or seasonal planting boxes.

Q. Premature and scattered development; off-site improvements.

- (1) Pursuant to the purpose statement contained at Subsection C(8) and (9) above, and the site plan regulations, the Board reserves the right to classify a proposed development as scattered and premature if it makes a determination that approval would create or involve danger or injury to the public's health, safety, or prosperity by reasons of the lack of: (a) Water supply, sewer capacity or means to deliver said utilities; (b) Adequate drainage; (c) Transportation and roadway access; (d) Fire protection; (e) Other similar public services; or (f) If the project would necessitate the excessive expenditures of public funds for the supply of such services.
- (2) The project proponent has the ability to resolve and overcome a determination of premature and scattered development by the construction of certain off-site improvements intended to alleviate the issue or shortcoming that creates the danger or injury. The construction of said improvements shall be pursuant to the applicable sections of the site plan regulations, or through the issuance and approval of an SUP.

**§ 305-23. Bed and Breakfast.** [Added 09-12-11 by Ord. No. 06-12]

- A. Purpose: The purpose of this section is to protect the health, safety and public welfare of City residents by regulating Bed and Breakfast establishments to insure

compatibility with the surrounding neighborhoods in the residentially zoned districts.

- B. Requirements: An application for a Special Use Permit, per Section 305-6 of this Ordinance must be obtained for a proposed Bed and Breakfast [B & B]. In addition to the performance standards found in Section 305-6, the application must conform to the following conditions and criteria:
- a. The proposed B & B must be located in an owner occupied single family residential dwelling. No detached barns, garages, or any other similar accessory structure may be used for the establishment of B & B rooms.
  - b. Notwithstanding the provisions of § 305-24, Signs, only one non-internal illuminated sign, no larger than two square feet in size and to be approved at the time of the issuance of the special use permit, is permitted. The sign may have lighting consistent lamp post style residential use.
  - c. No more than fifty (50) percent of the entire habitable living space in the dwelling shall be allocated for B & B Bed and Breakfast establishment purposes.
  - d. The owner of the property shall be responsible for the operation of the property and shall be a resident of the property when the B & B establishment is in operation.
  - e. There shall be at least one bathroom solely dedicated to the guests of the B & B; individual sleeping rooms may have private bathrooms.
  - f. For any proposed B & B, the NH DES and the City must have an approved septic plan on file. Prior to the issuance of a SUP for the B & B, the adequacy of the septic system must be verified through an assessment of the plan and a on-site inspection, conducted by a licensed septic designer. This assessment must be submitted at the time of the SUP application. If the existing septic does not meet the DES requirements, then it must be replaced or expanded prior to a Certificate of Use and Occupancy being issued.
  - g. The B & B shall not cater to special or ancillary functions, or any other hospitality or business.
  - h. An area of dining capable of accommodating the number of registered guests and housed in the primary residence of the owner shall be provided. Food service shall be limited to paying guests and only breakfasts shall be served.
  - i. The maximum consecutive length of stay for any guest shall be:
    - a. fourteen (14) consecutive calendar days; and/or
    - b. twenty-one (21) days in any calendar month; and/or

- c. thirty (30) days in any one year period.
- j. Two parking spaces for the Single Family Residential home and one parking space for each room being utilized for the B & B must be available on-site.
- k. A building permit must be acquired for all work that will be completed inside the existing building and a Certificate of Use Permit must be issued prior to the B & B conducting business. The dwelling housing the B & B must be compliant with all State Fire, Life Safety, and Health Codes.
- l. All applicable State, Federal and Local permits must be obtained.
- m. For any property within the Lake Protection Zoning District the Board reserves the right to consider water quality issues such as setback to the shoreland, lot size, soil conditions, and other similar land use characteristics when weighing the merits of a SUP application.

**§ 305-24. Signs.** [Amended 11-6-2006 by Ord. No. 06-07]

**A. General requirements.**

- (1) No sign, as defined in § 305-3B of this chapter, shall be erected, altered, or relocated on any property in any district, except as permitted by and in conformance with this section.
- (2) All sign permit applications shall be filed with the Planning and Zoning Office, on forms available through the office or otherwise available, and all required fees shall be in conformance with the fee schedule approved by the Franklin City Council.
- (3) All signs and their supporting structures, whether or not erected prior to the effective date of this section, shall be maintained in safe and good condition. If the Code Enforcement Officer, the Planning and Zoning Administrator, or other appropriate City employee determines that a sign presents a hazard to public safety, then written notice shall be given to the property owner and/or manager instructing that the sign be repaired or removed.
- (4) All signs, including all electrical components, shall be installed in accordance with the applicable sections of the International Building Code, and any other applicable local, state or national codes. All electrical work shall be performed by a licensed electrician.
- (5) Abandoned signs or signs for businesses no longer in operation shall be removed by the owner when the use is discontinued for a minimum of 30 days, or in no case longer than 10 days after receiving written notice from the Planning and Zoning Administrator (hereinafter "Administrator") or the City ordering the removal of the sign.
- (6) No signage shall be placed on any property so as to limit or restrict sight distance from any driveway entrance point or from any intersection of any

City street. If the Administrator or any other City public safety official determines that any signage is in violation of the provision, the property owner or manager shall remove or relocate said sign upon verbal or written notice.

- (7) Existing signage that has been legally placed on the property prior to the effective date of this section shall be allowed to remain in place, and the face of the sign may be replaced. This provision notwithstanding, if the sign is moved or removed for any purpose, or if a new supporting structure is installed, then the new or replacement sign shall conform to the provisions of this section.
- (8) Any freestanding sign shall be at least five feet away from any property line.
- (9) For any sign requiring a permit, including a freestanding sign, the Administrator reserves the right to require any additional information deemed necessary, including, but not limited to, property surveys, wind load, or structural issues, to demonstrate that the proposed sign is being installed in a safe and professional manner and will not create any public safety issues.
- (10) For any sign outlined below that is allowed to be illuminated, the sign may not be illuminated in any manner which causes a measurable adverse effect to abutting properties or an undue distraction, confusion, or hazard to vehicular traffic. The illumination may be from an internal source or through an outside light fixture (light bar, spot light, etc.). The illumination shall not spill over onto any abutting property.
- (11) If any signage is placed so that it violates any provision of this section, then within 10 days from the receipt of written notice from the City, the owner or property manager shall remove the signs.

B. Signs allowed without permit.

- (1) The following types of signs are allowed and do not require any permit from the City, but are subject to the restrictions below.
  - (a) Temporary real estate "for sale" signs. In any residential zoning district or the B-2 Zone, one sign per parcel, with the size not to exceed five (5) square feet, may be placed on the lot being sold. In the B-1, I-1, or I-2 Zones, one sign per parcel, with the size not to exceed 32 square feet, may be placed on the lot being sold. All of these signs shall be removed within 10 days following the sale/closing of the property. No off-site directional signs are allowed with the exception of one-day open houses, when the sign must be removed at the end of the day.
  - (b) Temporary political signs are allowed in any zoning district, with the size not to exceed eight square feet. All signs shall be removed no later than the second Friday following the election unless the election is a primary and the signs concern a candidate who is a winner in the primary.

- (c) Temporary signs for yard sales, with the size not to exceed six square feet. All signs shall be removed at the end of the sale.
  - (d) Temporary signs advertising the building contractor, architect, painter, paving company or other company involved in the design or construction of or on the individual property. The size shall not exceed four square feet, and the signage may be placed at the commencement of the work and shall be removed within 10 days of the occupancy of the building or the completion of the project.
  - (e) Temporary or permanent signs for residential subdivisions, housing projects, or commercial construction or renovation projects as allowed by the Planning Board through the subdivision or site plan approval process. For projects under construction, one sign is allowed. For permanent signs (for example, "Woodland Acres") one sign per roadway entrance is allowed.
  - (f) Individual signs within residential districts with the name of the property owner or the place (the "Smith's" or "Back Acres Farm"). This does not apply to commercial, industrial, or agricultural businesses. These signs may be lighted with a common residential lamppost-type light.
  - (g) Any other sign determined by the Planning and Zoning Administrator to be similar to and consistent with the types and purposes of the signage outlined above.
- (2) None of the permitted signs outlined in Subsection B(1)(a) through (e) above shall be illuminated in any way.
- C. In any zoning district, the following signs are allowed, subject to the following requirements:
- (1) Signage for any permitted or allowed home occupation. The sign shall be subject to the size limits found in § 305-25 of this chapter. A permit issued in conformance with the provisions of this section shall be obtained. Signs for a permitted home occupation may be illuminated in a manner consistent with the lighting from a home lamppost.
  - (2) Signage, including any type of bulletin board or announcement-type board, for any standalone church, hospital, or school building. The sign shall not exceed 32 square feet in size. A permit issued in conformance with the provisions of this section shall be obtained. These signs may be illuminated.
  - (3) Temporary signs, no larger than 32 square feet in size, announcing the events of a nonprofit organization or civic organization may be placed without a permit, but notice must be given to, and permission must be granted by, the Administrator, who reserves the right to place limits or conditions on the size, location, and design of the sign. These signs may only be placed on City-owned property with the permission of the City Council or the City Manager. If placed on private property, the permission of the property owner is required.



The signs must be removed within 48 hours after the event being advertised, or at the end of the seasonal event.

- (4) Traffic and pedestrian control and safety signs (for example: "exit only," "no parking," "do not enter," or directional arrow). These signs shall be located on the subject property. For new projects that are subject to site plan review and permits, the types and locations of these signs shall be shown on the plans submitted to the Planning Board. These types of signs may contain a company logo or name. These types of signs must be approved by the Administrator. The Planning and Zoning Administrator reserves the right to limit or regulate the number, size or design of these types of signs on any individual property.
- D. In the business and industrial zoning districts (B-1, B-2, I-1, or I-2 zones) all proposed signage (wall, hanging, or freestanding) requires a permit issued by the Planning and Zoning Administrator or a designee, and all signage shall conform to the requirements outlined below.
- (1) All signage shall only advertise the business or industry located on, or the goods or services sold or provided on, the subject property.
  - (2) In the B-2 Zone, the proposed signs shall not have a combined surface area greater than one square foot for each foot in width of the principal structure on the subject property. Both sides of any hanging sign shall be included in the calculation of the total area. The height of any sign in these districts shall not exceed 12 feet.
  - (3) In the B-1, I-1, and I-2 Zones, the proposed signs shall not have a combined surface area greater than two square feet for each foot in width of the principal structure on the subject property. The height of any sign in these districts shall not exceed 24 feet.
  - (4) Signs may project over the sidewalk so long as the sign does not impede or endanger pedestrian or vehicular traffic. All signs that extend over the sidewalk shall be professionally installed to ensure structural integrity. The bottom of any such sign must be at least 10 feet above the sidewalk. In addition to the maintenance requirements outlined in Subsection A(3) above, all structural components associated with the hanging of the sign shall be properly maintained to ensure that the sign does not become a public safety hazard. If the City determines that a hanging sign is a safety hazard, then notice shall be given to the property owner/manager to remove or repair the sign. Failure to comply with the requirements of said notice shall be considered a violation of this section and subject to any and all applicable and appropriate enforcement actions.
  - (5) For any shopping center or other multitenant business building, two types of signs shall be permitted. One sign may be placed on the face of the building for each of the legally established businesses; the second sign may be a shared, freestanding directory-type sign that gives the names of the businesses located in the center. The size of the wall signs shall not exceed one square

foot for each foot of the width of the individual business section with a maximum of 50 square feet for any one business use. The size of the freestanding directory sign shall not exceed the total of 15 square feet for each individual business, with a maximum of 80 square feet in the B-1 Zone. If the number of individual businesses in the center would require the size of the sign to exceed 80 square feet, then a second directory sign may be permitted to accommodate all of the individual businesses. In the I-1 (Industrial) Zone, a freestanding sign at the entrance to the Franklin Industrial Park is allowed, announcing the names of the individual companies located within the Park. This sign shall not exceed 120 square feet in size.

- (6) For a property in the B-1 or B-2 Zoning District that contains multiple buildings on one lot housing multiple businesses, each individual business may have one wall sign not to exceed 15 square feet in size. A common freestanding sign announcing the different businesses on the property may be installed, with the size not to exceed 45 square feet.
  - (7) Businesses or industries located in remote areas or locations may place directional signs on land located at the intersection of a nearby traveled street, provided that the sign meets the following requirements:
    - (a) The sign shall not contain any advertising or information for any goods or services not sold or available on the remote property.
    - (b) The sign shall not be placed within the right-of-way unless permitted by the City or the state.
    - (c) The type of illumination of the proposed sign shall be outlined in the application and must be approved by the Administrator, who may limit or condition the type of lighting and the level of illumination.
    - (d) The size of the sign shall not exceed four square feet. If more than one business is located in the remote location, then a shared directional sign may be permitted and the size shall not exceed 10 square feet.
    - (e) The application must indicate permission from the property owner where the sign will be located.
    - (f) The City reserves the right to place off-site directional signs on its property for the purpose of enhancing the visibility of local businesses.
  - (8) Any of the signs discussed in Subsection D(1) through (5), above, may be illuminated.
  - (9) For any signs discussed in Subsection D(5) and (6) above, if the associated buildings are new, then the signage shall be considered as part of the site plan review process.
- E. For any preexisting, nonconforming business or industrial use located in any residential zone, the existing signage may remain in place, and the face of said sign may be replaced. This provision notwithstanding, if the sign is removed for any

purpose, then any new or replacement sign shall not exceed eight square feet in size and shall not be illuminated beyond the type of illumination found on a residential lamppost.

F. Prohibited signs; signs on vehicles.

(1) The following types of signs are prohibited:

- (a) Any electronic sign with moving, flashing, blinking, or changing characters, pictures, designs, or any other type of image.
- (b) Any type of sign, billboard that advertises or promotes goods, services, or products not sold on the property on which the sign is located. This provision is conditioned by Subsection D(6), above.

(2) Registered or unregistered vehicles or trucks shall not be used to locate signage or any type of billboard display. Signage and advertising on any type of vehicle is limited to the advertising display of the business that owns the registered vehicle in question.

**§ 305-25. Home occupations.** [Amended 12-1-1997 by Ord. No. 97-3; 2-7-2005 by Ord. No. 07-05]

A. Minor home occupations. Minor home occupations include, and are similar to but not limited to, professional offices such as accountants, attorneys, and mental health providers, business or computer consultants, seamstresses, tax preparers, appraisers, architects, secretarial services providers, seasonal sales of agricultural products, and music teachers. These uses are allowed upon the issuance of a permit from the Planning and Zoning Administrator in conformance with the following conditions:

- (1) The use is conducted within the residential dwelling or any accessory building on the property, but not both.
- (2) The proposed occupation does not involve the generation of noise, dust, odors, vibration or fumes.
- (3) No outside storage is allowed.
- (4) Other than deliveries by normal household parcel delivery trucks, no other deliveries are allowed.
- (5) The proposed occupation shall be carried on by a member of the family residing in the subject residence. One employee who does not live at the subject property may be employed.
- (6) The occupation shall be one where no more than one client or client group is expected at any one point in time, with the exception of the overlap of scheduled appointments.
- (7) Notwithstanding the provisions of § 305-24, Signs, only one nonilluminated sign, no larger than two square feet in size and to be approved at the time of the issuance of the special exception, is permitted.

- (8) Adequate parking shall be available for both the primary residential use and the proposed home occupation use.
  - (9) Making external alterations to the primary or accessory structure for the purpose of creating space for the home occupation and which go beyond customary changes to a residential structure is prohibited.
  - (10) The area devoted to the home occupation may not be greater than 25% of the gross floor area of the principal or accessory structure.
  - (11) Home occupations are personal in nature, and special exceptions obtained allowing the same expire at the termination of the business or in the event that the person holding such a permit ceases to reside at the specified location.
  - (12) All building codes and/or fire and life safety codes must be met for all portions of the structures used for the proposed occupation.
- B. Major home occupations. Major home occupations include, and are similar but not limited, to beauty or barber shops, pet grooming, family physicians, contractor's office or certain professional offices. These types of uses are allowed through the issuance of a special exception from the Zoning Board of Adjustment, in conformance with the following conditions:
- (1) The use is conducted within the residential dwelling or any accessory building on the property.
  - (2) The proposed occupation does not involve the generation of noise, dust, odor, vibration, or fumes.
  - (3) Other than deliveries by normal household parcel delivery trucks, no other deliveries are allowed. No semi-tractor-trailers, tow-type trucks, etc., are to be used to deliver any items to the property at any time.
  - (4) The proposed occupation shall be carried on by a member of the family residing in the subject residence. Two employees who do not live at the subject property may be employed.
  - (5) Notwithstanding the provisions of § 305-24, Signs, only one nonilluminated sign, no larger than four square feet in size and to be approved at the time of the issuance of the special exception, is permitted.
  - (6) Adequate parking shall be available for both the primary residential use and the proposed home occupation use.
  - (7) Making external alterations to the primary or accessory structure for the purpose of creating space for the home occupation and which go beyond customary changes to a residential structure is prohibited.
  - (8) The area devoted to the home occupation may not be greater than 25% of the gross floor area of the principal structure.
  - (9) Home occupations are personal in nature, and special exceptions obtained

allowing the same expire at the termination of the business or in the event that the person holding such a permit ceases to reside at the specified location.

- (10) The proposed occupation shall not create pedestrian or vehicular traffic that is determined to be detrimental to the neighborhood.
- (11) All building code and/or fire and life safety codes must be met for all portions of the structures that are utilized for the proposed occupation.
- C. Other home occupations. Any proposed home occupation not outlined as a specific use or type of use in Subsections A and B, above, is allowed only after the issuance of a variance and a special exception from the Board.
- D. Salespersons, tradespersons, professionals, and other similar occupations, who offer their services off site but maintain an office for their off-site work may do so by right, without any permits or special exceptions, as long as no traffic is generated above and beyond personal vehicles and standard home parcel delivery vehicles and there are no employees.

#### **§ 305-26. Agricultural uses.**

Agricultural uses shall comply with the following requirements:

- A. Buildings to house animals and birds shall not be erected within 200 feet of the adjoining property.
- B. Feed lots, fenced runs, pens and similar intensively used facilities, but excluding pasture for animal raising and care, shall not be located within 300 feet of the adjoining property.
- C. Roadside stands for sale of agricultural products shall be permitted if:
  - (1) They are erected 25 feet back from the nearest edge of right-of-way.
  - (2) They are used exclusively for the sale of agricultural products.
  - (3) Parking spaces are provided off the road right-of-way.
  - (4) Signs conform to provisions set forth in § 305-24.
  - (5) They meet site plan review requirements.

#### **§ 305-27. Gravel pit operations.**

When permitted, removal of fill, gravel, minerals, stone or loam from the premises for commercial purposes shall be allowed for a period of one year, provided that:

- A. Upon a predetermined date of completion and within one month after completion, the area is made safe and sightly by grading, leaving no slope greater than 2:1 nor any area not capable of free draining to prevent standing water; finishing with suitable ground cover to prevent erosion; and/or, where found more desirable by the Planning Board, through fencing in the area of excavation.
- B. Annual renewal of permits shall be conducted by the Planning and Zoning

Administrator each September and may be subject to review by the Planning Board.

- C. All procedures and standards outlined in RSA 155-E must be met.

**§ 305-28. Buildings on Class VI highways and private roadways.** [Amended 4-3-2006 by Ord. No. 07-06]

- A. In accordance with RSA 674:41, as amended, no building permit shall be issued for the erection of a building on a lot with frontage on a Class VI highway or private roadway unless the City Council, after review and comment by the Planning Board, votes to authorize the issuance of a building permit(s) for the erection of buildings on said highway or roadway or a portion thereof. In the issuance of such a permit, the City neither assumes responsibility for the maintenance of the Class VI highway or private roadway nor liability for any damages resulting from the use thereof.
- B. Prior to the issuance of a building permit, the applicant shall produce evidence that notice of the limits of municipal responsibility and liability has been recorded in the Merrimack County Registry of Deeds.<sup>3</sup>

**§ 305-29. Water recreation and water storage facilities.**

Any facility for water recreation, such as private swimming pools, swimming clubs and commercial fishing ponds, or any other water storage facility, such as reservoirs, fish hatcheries, sewage lagoons and farm ponds, shall comply with the following requirements:

- A. The facility shall conform to the setback requirements.
- B. All swimming pools, with the exception of all swimming pools under a depth of 18 inches, shall be enclosed by a fence no less than four feet high and shall be constructed so that no opening in the structure exceeds two inches in width, height and, if applicable, depth. All structural support, braces and other framing shall be on the internal side of any such fence to prevent such bracing from being used as a handhold or foothold. All openings in such fences shall have self-latching, self-closing gates with latches placed no less than four feet from the ground. In the case of aboveground swimming pools, the walls or other structural components of the pool facility may be considered as part of the fence or barrier structure if, in the opinion of the Planning and Zoning Administrator, said walls and structural components meet the specifications stated above and form an effective barrier to unauthorized entry to the pool area by young children. The Zoning Board of Adjustment may review and approve other fencing arrangements on an individual basis upon application made to the Planning and Zoning Administrator. [Amended 4-3-2000 by Ord. No. 00-1]
- C. The facility, if operated to attract visitors, shall comply with parking requirements established under § 305-19 of this chapter.

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3. Editor's Note: Former § 305-28.1, Storage containers, added 3-1-2004 by Ord. No. 12-04, which immediately followed this section, was repealed 2-7-2005 by Ord. No. 07-05. See now § 305-29.5.

- D. Before a certificate of use and occupancy shall be issued to the operator or owner of a facility, a plan shall be submitted to the Board of Adjustment showing the size of the facility, proposed use, parking arrangement and use of buildings on the site, surrounding properties and their use and any other pertinent information. [Amended 9-14-1998 by Ord. No. 98-4]
- E. Private residential swimming pools which meet all setback requirements shall not require approval of the Board of Adjustment.

**§ 305-29.1. Wireless telecommunications facilities.** [Added 12-20-2000 by Ord. No. 00-6; amended 5-1-2006 by Ord. No. 09-06]

- A. Authority. This section of the Franklin Zoning Ordinance is adopted in accordance with the authority granted by New Hampshire Revised Statutes Annotated 674:16 and 674:21.
- B. Purpose.
  - (1) The location and plan requirements, performance standards, and general regulations have been enacted in order to fulfill the following purposes:
    - (a) To preserve the authority of the City of Franklin to reasonably regulate and provide for the siting of wireless telecommunications facilities (hereinafter "facilities") while facilitating the proper location of facilities to provide such services to the community in an efficient manner.
    - (b) To further the goals, objectives and recommendations of the 2005 Master Plan and the overall purposes of the Franklin Zoning Ordinance.
    - (c) To reduce adverse impacts such wireless telecommunications facilities may create, including, but not limited to, impacts on aesthetics, environmentally sensitive areas such as the watersheds of Webster Lake and the three rivers prominent in Franklin, historically significant buildings and areas of the City, view sheds throughout the City, health and safety by injurious accidents to person and property, and protection of property values.
    - (d) To encourage or require innovative locations, collocation and/or cooperation between competitors in order to reduce the overall number of required facilities and the cumulative adverse impacts upon the City, and to encourage the camouflaging of facilities so that visual impacts are reduced to the greatest degree possible.
    - (e) To assure compliance with federal laws and policies and State of New Hampshire statutes or regulations, including, but not limited to, RSA 12-K.
    - (f) To create requirements and standards so as to apply said requirements and standards to all wireless providers and not discriminate against any provider.
    - (g) To provide for the adequate management and maintenance of any

approved facility.

- (2) Nothing in this chapter or related regulations establishes a policy or requirement in favor of adequate wireless telecommunications coverage throughout the entirety of the geographical limits of the City of Franklin.

C. Applicability.

- (1) Wireless telecommunications facilities shall be permitted within the City of Franklin only in accordance with this section, the Use Table, and all other specific and applicable provisions of the Zoning Ordinance. In cases where the provisions of this section conflict with other sections of the Zoning Ordinance, the provisions of this section shall supersede said other sections and control the issuance of any permits for this type of use.
- (2) Wireless telecommunications facilities may be considered either principal or secondary uses. Having an existing, permitted use on site shall not preclude the addition of a facility as a secondary use as long as all other provisions of the ordinance are met. A different existing use or an existing structure on the same lot shall not preclude the installation of a facility on such lot. For purposes of determining whether the installation complies with dimensional regulations, including but not limited to setback and lot coverage requirements, the dimensions of the entire lot shall control, even though the facility may be located on leased parcels within such lots. Facilities that are installed in accordance with the provisions of this chapter shall not be deemed to constitute the expansion of a nonconforming use or structure, and facilities installed in conformance with the provisions of this chapter will not need to obtain a variance except if the proposal goes outside the terms of this chapter or requires waivers that cannot be granted by the Planning Board in accordance with the authority granted to the Board under this chapter.
- (3) Any alteration or modification of, or to, a facility approved per a previously issued permit will require a new approval consistent with this zoning provision.
- (4) This chapter shall not govern any tower or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas. This chapter adopts the provisions and limitations as referenced in RSA 674:16 IV.
- (5) Wireless telecommunication facilities shall not be considered essential services or any type of public utility as defined or used elsewhere in the City's Zoning Ordinance or any regulations. The use and siting of wireless telecommunications facilities are entirely controlled and governed by this section.

D. Permits required.

- (1) Prior to constructing any type of wireless telecommunications facility, the



applicant shall obtain a special use permit (SUP), as defined, from the Franklin Planning Board.

- (2) For the purpose of the issuance of the SUP, the Board shall also consider the application under the provisions of the site plan permitting process. All hearings, procedures and administrative actions shall be conducted in accordance with RSA 676:4.
- (3) Pursuant to the authority granted by the Site Plan Regulations,<sup>4</sup> the applicant shall file for a preliminary site plan review. At a minimum, the purpose of this preliminary discussion is to discuss siting issues and compliance with Subsection E, below. At a maximum, the applicant may present any information outlined in Subsections F or G, below. Any decisions, consensus opinions, or comments made by the Board or any individual member is not binding and shall not interfere with any participation in the hearing for the SUP. The hearing process for this preliminary discussion is a public hearing, and proper notice to the abutters is required, but it does not trigger notice to the communities within 20 miles of the boundaries of the City.
- (4) The Board may waive any provision of this section upon finding that such waiver is in the best interest of the City of Franklin; that the waiver will not injure, harm, or otherwise adversely impact the surrounding neighborhood of the proposed facility; and that the goals, objectives, and purposes of the overall Zoning Ordinance and this section are not compromised.

E. Location requirements.

- (1) Pursuant to the purposes of this zoning provision and the goals of the City to encourage camouflaged locations and collocations, the applicant shall utilize the following location priorities, starting with the first option. An applicant shall show proof of having exhausted each option (for example, an analysis of the siting characteristics for multiple sites considered for a location option) before moving on to the succeeding options. The Board reserves the right to request any information, tests, or other analysis to determine if the proof presented to eliminate a location option is satisfactory and supported by the facts. The burden of proving an option is not viable rests with the applicant.
  - (a) Concealed or camouflaged on an existing or new building or structure, including, but not limited to, buildings and roof areas, water towers, utility poles, or steeples.
  - (b) On an existing wireless telecommunications tower.
  - (c) On a new ground-mounted facility.
- (2) In making findings that a location priority cannot be achieved, the Board will consider a variety of issues, including, but not limited to:
  - (a) That no existing building or structure provides, or could provide through

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4. Editor's Note: See Ch. 402, Site Plan Review.

structural reinforcement, the required structural support to accommodate the proposed facility. Any evidence on lack of structural support must be accompanied by a report by a licensed professional engineer.

- (b) That electromagnetic interference between any existing antennas or facilities and the proposed facility would not provide for, or allow, the proposed coverage requirements.
  - (c) That the proposed coverage area cannot be met through the installation of antennas or other facilities on any individual or combination of available existing building(s) or structure(s).
- (3) The Board is not obligated to consider any financial evidence relating to an inability of the applicant to come to financial and contractual terms with a building or property owner for rent or lease of space for a proposed facility when making the finding discussed.
  - (4) The applicant shall provide copies of all letters of inquiry made to owners of existing lots, buildings or structures and letters of rejection. If letters of rejection are not provided, at a minimum, unanswered "return receipt requested" forms from the United States Post Office shall be provided for each owner of existing structures that was contacted. The Board reserves the right to require any other documentation deemed necessary to insure that adequate efforts have been made to secure siting options on existing buildings or structures.

F. Design performance standards.

- (1) For all proposed facilities, the following standards shall be met:
  - (a) All components of a proposed facility, including equipment shelters, towers, or generator buildings, shall be designed and constructed using stealth technology. The appropriateness of proposed stealth technologies shall be determined by the Board. Examples of stealth technologies include, but are not limited to, designs of antennas, buildings or shelters that blend in with the surrounding architectural style of the surrounding buildings; the use of a monotree for a stand-alone tower; the construction of a "flagpole," "fire tower," "weather vane," "windmill," "silo," "water tower," or other similar structure typically found in New Hampshire; or other similar design that reduces the visual impact of the proposed facility on surrounding neighborhoods and any other individual who can see the facility from a public way or a part of a viewscape.
  - (b) All ground-mounted buildings, structures, equipment pads, towers, or any other component associated with the facility shall be screened and buffered with a minimum of 10 feet of planted vegetative landscaping around all components of the facility. Natural vegetation is preferred, and if the site can be developed utilizing natural vegetation deemed adequate by the Board, then this option will be considered. The Board

may also consider a combination of vegetation and solid fencing. In locations where the visual impact of the compound would be minimal or nonexistent, especially on any abutting residentially zoned or occupied land, the landscaping/buffering requirements may be reduced or waived by the Board. The Board shall determine the density and species to be utilized based on site-specific conditions.

- (c) All ground-based equipment compounds or other facilities, including fencing or other security barriers, shall conform to the setback requirements, per § 305-14 of this chapter, for the subject zoning district. Equipment shelters completely underground are exempt from this provision.
  - (d) No hazardous waste shall be discharged on the site of any wireless service facility. If any hazardous materials are to be used on site, the board reserves the right to require adequate containment.
  - (e) All generators proposed for the facility shall be approved by the Board and shall be of a type and model designed to minimize sound impacts to any abutting property. The Board reserves the right to require additional soundproofing housing around the generator unit. The requirements of this provision may be modified by the Board based on information supplied by the applicant, including, but not limited to, generator type, relationship of the proposed site to abutting residential land uses, overall location of the site, or existing background noise.
  - (f) All lighting of the facility shall be approved by the Board. Lighting shall be limited to that which would be associated with general household use. This provision may be modified by the Board upon submission of a lighting alternative proposal by the applicant. Such proposal must demonstrate that the footcandle measurements at the property line or lease area of the wireless telecommunications facility shall be 0.0 initial footcandles above background lighting conditions at the site before wireless facility construction. The towers and/or antennas shall be lighted only if required by the Federal Aviation Administration (FAA). If the stealth technology employed for a proposed tower involves a flagpole, then the Board will consider what level of appropriate and necessary lighting is required for this type of use.
  - (g) All signage shall be approved by the Planning Board. No sign shall be larger than 16 square feet, and only one sign shall be allowed per facility. Smaller information or directional signs, including, but not limited to, "Keep Out," "Parking," "This Property Managed By," or "Danger," may be permitted by the Board as part of the overall permitting process. All requests for signage shall be submitted as part of the application package or during the hearing process.
- (2) For all proposed facilities to be attached to or mounted onto an existing building or structure, the following standards shall be met:

- (a) All of the standards outlined in Subsection F(1) above.
  - (b) The facility shall not increase the height of the existing building or structure by greater than 15 feet.
  - (c) All facilities or towers shall be freestanding. Lattice towers or guy-wired towers are expressly prohibited, except as part of a reconstruction project of an existing facility. The use of appropriate stealth technologies may result in this provision being waived or modified.
  - (d) If the applicant proposes to mount the equipment on the side or rear of a building or structure, the equipment shall be camouflaged so that it blends in with the building or structure. In making a judgment on this standard, the Board shall consider color, architectural features, and the overall appropriateness of the proposed facility to the general neighborhood. No equipment shall be located on the front (street side) of any building or structure.
  - (e) If the applicant proposes to mount the equipment on the side of a building or structure, any proposed equipment shall conform to the setback requirements, per § 305-14 of this chapter, for the subject zoning district. A fall zone, as defined in this chapter, will not be required for any facility proposed to be placed on an existing building or structure. The previous sentence notwithstanding, the Board reserves the right to require setbacks from the face of the proposed facility and any public space (for example, parking lot, sidewalk, walkway, or other similar space) located below the facility.
  - (f) Any antenna array placed upon an existing building or structure shall not extend out further than four feet from the horizontal face of the building or structure upon which the facility is to be mounted. The Planning Board may permit a larger-diameter antenna array after a finding that the visual impacts of a larger antenna array are negligible.
  - (g) All roof-mounted facilities shall be stepped back from the front facade of the building in order to limit the impact on the building's silhouette.
  - (h) The towers and/or antennas shall be lighted only if required by the Federal Aviation Administration (FAA).
- (3) For all proposed facilities to be stand-alone, ground-mounted towers, the following standards shall be met:
- (a) All of the standards outlined in Subsection F(1) above, except as modified below.
  - (b) The tower shall be of a monopole-type design. Lattice towers or guy-wired towers are expressly prohibited, except as part of a reconstruction project of an existing facility. The use of appropriate stealth technologies may result in this provision being waived or modified.

- (c) The height of the proposed tower shall not be higher than 100 feet or greater than 20 feet above the average tree canopy height for a distance of 100 feet from the base of the proposed tower. The height of any tower will be the minimum necessary in order to transmit and receive signals. The intent to serve a large area with one tall tower will not be accepted as justification of height. Multiple, minimum-height towers are preferred and may be required.
- (d) In order to ensure public safety, the minimum distance from the base of any ground-mounted tower to any property line, road, habitable structure, business or institutional use, aboveground fuel or hazardous material storage tanks, structure, or public recreation area shall be the distance equal to the fall zone, as defined elsewhere in this chapter. The fall zone may cross property lines as long as the applicant secures a fall zone easement from the affected property owners. The preceding sentence notwithstanding, the fall zone shall not extend into any area used for residential purposes.
- (e) The fall zone for any tower shall be contained within the zoning district where the facility is located and permitted through § 305-13, Permitted and Special Exceptions Use Table. No fall zone shall extend into any residentially zoned district or onto any property used for residential purposes.
- (f) All buildings or associated equipment compound areas shall be fenced, with a security barrier no less than six feet or greater than eight feet in height.
- (g) All new ground-mounted towers and associated facilities shall be surrounded by a buffer of dense trees and shrubs that extends in all directions around the entire facility for a distance of 100 feet. A combination of existing or newly planted vegetation may be used to meet this standard. The proposed vegetated buffer shall be shown on the plans submitted to the Board for review. The Board reserves the right to require additional plantings if it is determined to be necessary to provide for proper and adequate screening for the abutting land uses. The proposed vegetated buffer shall be protected by a landscape easement, which shall specify that the vegetation buffer shall be maintained and that any trees removed because they are dead or dying will be replaced.
- (h) The towers and/or antennas shall be lighted only if required by the Federal Aviation Administration (FAA).
- (i) Existing entrances and driveways serving the site where the facility will be located shall be utilized, unless the applicant can demonstrate that a new entrance and driveway will result in less visual, traffic and environmental impact. New driveways to serve a wireless service facility shall not exceed 12 feet in width. A paved surface may be required at the discretion of the Board. Adequate parking for

maintenance or service vehicles or trucks shall be provided and shown on the plans submitted to the Board.

- (j) Any antenna array placed upon a proposed tower shall have a diameter of no more than four feet, exclusive of the diameter of the mount. The Planning Board may permit a larger-diameter antenna array after a finding that the visual impacts of a larger antenna array are negligible or that the larger diameter contributes to a lower tower or fewer antenna arrays required.
- (k) An applicant proposing to build a new tower shall execute an agreement that promotes maximum collocation upon the new structure. This agreement shall, at a minimum, require the applicant to supply available collocation for reasonable fees and costs to other telecommunications providers. Failure to provide such an agreement is evidence of the applicants' unwillingness to cooperate with the orderly and well-planned development of the City and is grounds for denial.

G. Plan submission and supporting material requirements. For all applications submitted to the Planning Board for special use permit, the following plans and information, as applicable, shall be submitted as part of the application package. The determination of whether or not a specific requirement or plan detail is applicable shall rest solely with the Board.

- (1) A plan meeting the requirements of a site plan, as outlined in Chapter 402, site plan Review, of the City Code, shall be submitted. Further, if a new tower is proposed, then this plan shall locate and show all buildings within 500 feet of the proposed tower.
- (2) A picture, or other architectural rendering, and an engineered plan of the proposed facility, including all antennas and associated equipment.
- (3) A plan that details the proposed equipment compound. Said plan shall show all proposed equipment, including, but not limited to, generators, buildings, or lighting.
- (4) A plan showing, and accompanying narrative describing, the maximum number of collocators that can be accommodated on the proposed tower and in any associated equipment compound.
- (5) Written proof that the proposed use/facility complies with the FCC regulations on radio frequency (RF) exposure guidelines.
- (6) For any stand-alone, ground-mounted tower [see Subsection F(3)], the applicant shall develop and install an installation simulation (i.e., tethered balloon) that depicts the ultimate maximum height and location of the antenna at the proposed site. The applicant shall advertise in local papers to alert area residents, in all municipalities within 20 miles of the proposed site, that the simulation is available for viewing. The advertisement shall be published two times, with the first ad at least three days prior to the simulation. The

simulation shall be maintained for a minimum of two days from the date of the last newspaper publication. The applicant shall provide to the Board a listing of the newspapers carrying the public notice, a copy of the advertisement, and the publication dates. Further, the applicant shall notify, by return receipt mail, all abutters, as defined in RSA 672:3.

- (7) A description of the installation simulation [defined in Subsection G(6) in this section], including metrics of the simulation, a list of newspapers carrying the public notice, a copy of the advertisement, dates the advertisement was carried and the duration of the simulation.
  - (8) An inventory of all existing wireless telecommunications towers (both active and decommissioned) that are within the jurisdiction of the City and those within two miles of the border thereof, including specific information about the location, height, and design of each tower. This information shall be used by the applicant as part of the analysis on options for collocation as discussed in Subsection E(1) and E(2), above. This information will be considered a public document and may be shared with any carrier or individual.
  - (9) Radio frequency coverage maps showing and narratives describing the existing coverage areas in the City and the proposed or desired coverage areas.
  - (10) Written proof that an evaluation has taken place which demonstrates that the use/facility satisfies the requirements of the National Environmental Policy Act (NEPA). If an environmental assessment (EA) or impact statement (EIS) is required under the FCC rules and NEPA, submission of the EA or EIS to the Board prior to the beginning of the federal thirty-day commitment period, and the City process, shall become part of the application requirement.
  - (11) An architectural rendering that shows the proposed tower/facility from the perspective of the closest public street and the perspective of the abutting property owners.
  - (12) Any other plans, material, or information deemed appropriate or necessary by the Board to make a decision on the application.
  - (13) In addition to the abutter and public notice as required under the Site Plan Regulations, the applicant is responsible for notification per RSA 12-K:7, as amended. As part of the application package submitted to the Board, the applicant shall submit a listing of all communities within 20 miles of the borders of Franklin and the local newspapers used by those communities for legal ad purposes. The applicant is responsible to pay the fees associated with the newspaper ads and the notice to the individual communities. The fees shall be the same as the abutters notice fees per the City's Fee Schedule.
- H. Evaluation and review criteria. In making a decision on the overall merits of the application, or on attaching conditions to any approval, the Planning Board shall consider the following:

- (1) Compliance with the purpose, design standards and overall requirements of the zoning provision.
  - (2) The relationship of the proposed facility to the neighborhood.
  - (3) The relationship of the proposed facility to the site on which the facility will be located. While recognizing that these types of facilities may be either primary or secondary uses on a specific site, it is not the intention of these regulations to allow the siting of these facilities on an already developed site so that the site, in the opinion of the Board, becomes overcrowded or that the addition of the facility creates new and unusual safety hazards or concerns.
- I. Consulting fees and payments. By and through the submission of the application for a facility covered under this zoning provision, the applicant agrees to pay any and all consulting fees for any outside study, review, or analysis deemed necessary by the Planning Board so that it can make necessary decisions on the application. Failure to agree to pay for any outside consulting work, or failure to pay said fees prior to the vote and issuance of a decision, shall be grounds for a denial of the application.
- J. Monitoring and maintenance. The owner of the facility shall maintain the wireless service facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, and maintenance of the buffer areas and landscaping.
- K. Abandonment or discontinuation of use; security for removal.
- (1) At such time as a carrier plans to abandon or discontinue operation of a wireless service facility, such carrier will notify the City by certified United States Mail of the proposed date of abandonment or discontinuation of operations, with said notice given no less than 30 days prior to the proposed date. In the event that a carrier fails to give such notice, the wireless service facility shall be considered abandoned upon such discontinuation of operations.
  - (2) Upon abandonment or discontinuation of use, the owner of the facility shall physically remove the wireless service facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:
    - (a) Removal of antennas, mounts, foundations, concrete pads, equipment shelters and security barriers from the subject property.
    - (b) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
    - (c) Restoring the location of the wireless service facility to its natural condition, except that any landscaping or grading shall remain in the after condition.
  - (3) If the owner of the facility does not remove the facility upon the Zoning



Administrator's order, then the City Council shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within 90 days of receipt of the declaration of abandonment by the City Council. If the abandoned facility is not removed within 90 days, the City may execute the security to pay for this action.

- (4) Recognizing the hazardous situation presented by abandoned and unmonitored facilities, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned or discontinued telecommunications facilities. The amount of the security shall be based upon the removal cost plus 15%, as provided by the applicant and certified by a professional civil engineer licensed in New Hampshire. The owner of the facility shall provide the Planning Board with a revised removal cost estimate and structural evaluation prepared by a professional civil engineer licensed in New Hampshire every five years from the date of the Planning Board's approval of the site plan. If the cost has increased more than 15%, then the owner of the facility shall provide additional security in the amount of the increase. The aforementioned security shall be posted with the Planning Board prior to the issuance of a certificate of occupancy for the facility.

L. Decisions.

- (1) In granting a special use permit, the Planning Board may impose conditions necessary to minimum any adverse effect of the proposed tower on adjoining properties and to preserve the intent and purpose of this section.
- (2) The Planning Board may approve, approve with conditions or deny an application. All decisions shall be in writing, and a denial shall be based on substantial evidence contained in the written record.

M. Expedited review. The Planning Board may, by regulation, provide for an expedited review for facilities that utilize existing facilities or sites designated by the Planning Board and City Council as desired sites for such facilities.

**§ 305-29.2. Reserved. [Disorderly residence removed from Zoning Ordinance and placed in City General Code on April 4, 2011 per Ord. No. 06-11]**

**§ 305-29.3. Webster Lake Overlay District.** [Added 9-8-2004 by Ord. No. 03-05]

A. Purpose:

- (1) Webster Lake is a public water body. In as much, the City of Franklin shares with the State of New Hampshire jurisdiction and responsibility to protect and maintain the quality of this valuable resource for the greatest public benefit.
- (2) The Webster Lake watershed, which falls within the municipalities of Andover, Hill and Franklin, is a valuable and fragile natural resource and has direct influence on the integrity of the water quality of Webster Lake.
- (3) Under current local and state laws, the potential exists for random, piecemeal

or uncoordinated uses of the land within the watershed, which could have significant negative impact on the water quality of Webster Lake and its tributaries. The environmental quality of the watershed has been degraded due to agricultural runoff, the destabilization of soils from development activities, and the failure of septic systems.

- (4) The creation of performance standards for certain land use activities within the watershed will provide for increased long-term protection of Webster Lake and its watershed.
- (5) Where the Webster Lake watershed transcends municipal boundaries, the City of Franklin will seek opportunities to work cooperatively with neighboring towns toward the common objective of improved water quality within the subject watershed. In the spirit of a regional approach to resource management, the City will foster cooperation among regional and state officials to further enhance the quality of water found in this overlay district.

**B. Authority:**

- (1) Under RSA 674:16 the Planning Board has the authority to promulgate recommendations to modify or create zoning changes and for the City Council to adopt such recommended changes.
- (2) RSA 674:21, Innovative Land Use Controls, sections (h) and (j), allows municipalities to adopt ordinances which contain performance standards and environmental characteristics zoning that allow the City to promulgate standards to ensure the continued integrity of these natural resources.
- (3) In any case where a provision of these regulations is found to be in conflict with provisions of other regulations, ordinances or codes of either the state or the City, the provisions which are more restrictive shall prevail.

**C. Definitions:**

**BANK** — The transitional slope adjacent to the edge of a surface water, the upper limits of which is usually defined by a break in slope or, for a wetland, where a line delineated in accordance with DES Administrative Rules Wt. 301.01 indicates a change from wetland to upland area.

**INDIVIDUAL SEWAGE DISPOSAL SYSTEM** — As defined by the New Hampshire Department of Environmental Services (NH DES) and associated Code of Administrative Rules, as amended.

**SURFACE WATER OR SURFACE WATER BODY** — Any portion of the waters of the state which has standing or flowing water at or on the ground. This includes, but is not limited to, rivers, streams (perennial or intermittent), lakes or ponds.

**WATERSHED** — A geographic area in which all water drains to a given stream, lake, estuary or ocean.

**WEBSTER LAKE WATERSHED** — The Webster Lake Watershed consists of the area shown on the map titled Webster Lake Watershed Land Use, prepared by NH

DES, October 2003.

**WEBSTER LAKE WATERSHED OVERLAY DISTRICT** — The area shown as the Overlay District on the map attached to the Franklin Zoning Ordinance and which is subject to the provisions contained herein.

**WETLAND** — An area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs, wet meadows and other similar areas.

D. Performance standards.

(1) Agriculture (includes any agricultural activities):

- (a) Livestock are not allowed direct access to surface waters. Drinking water for livestock shall be provided by the use of a tub or other container located a minimum of 150 feet away from any surface water or wetland.
- (b) Application of fertilizers or pesticides is not allowed within 200 feet from any surface water or wetland.
- (c) All livestock grazing and feeding areas shall be a minimum of 200 feet away from surface waters.
- (d) All runoff from livestock feeding areas shall be directed away from surface water or wetland area.
- (e) No spreading of animal manure on fields or pastures is allowed any closer than 200 feet away from any surface water or wetland. No stockpiling of manure is allowed any closer than 200 feet from any surface water or wetland area, and the stockpiling must be placed on an impervious surface and contained to prevent the release of leachate.
- (f) Unless stricter setbacks or operational requirements are outlined above, all agricultural operations shall be conducted in accordance with the Manual of Best Management Practices for Agriculture in New Hampshire, New Hampshire Department of Agriculture, June 1993, as amended, and in accordance with all appropriate sections of the Comprehensive Shoreland Protection Act, as amended.

(2) Wetlands and surface waters:

- (a) No filling, alteration, or any other work is allowed within any wetland area without the required permits from the NH DES.
- (b) The property owner or his/her designee is responsible for obtaining all necessary state or federal permits pertaining to, but not necessarily limited to, the construction and/or installation of any docks, boathouses, footpaths or steps to the water. Copies of all permits shall be submitted

to the Franklin Conservation Commission.

- (c) For any plans or designs required as part of this Overlay District which involve analysis and determination of wetland boundaries, the work to determine said boundaries shall be done by a certified wetland scientist and/or a certified soil scientist, as defined by RSA 310-A:76 II and III, as amended.
- (3) Forestry (includes all commercial forestry activities):
  - (a) A minimum seventy-five-foot undisturbed natural vegetated buffer shall be maintained adjacent all surface waters or wetland areas.
  - (b) Unless stricter setbacks or operational requirements are outlined above, all forestry operations shall be conducted in accordance with the Best Management Practices for Erosion Controls on Timber Harvesting Operations in New Hampshire, New Hampshire Division of Forests and Lands, February 2000, as amended, and in accordance with all appropriate sections of the Comprehensive Shoreland Protection Act, as amended.
- (4) Site construction (commercial/industrial or residential):
  - (a) No new structures or driveways are allowed within 50 feet of any surface water or wetland area. Accessory structures are allowed when permitted by the NH DES.
  - (b) The impervious area of any building lot is limited to 30%. Impervious area includes building area, gravel or asphalt driveway and parking area.
  - (c) For any use that will render impervious more than 20% or more than 2,500 square feet of any lot, whichever is greater, a stormwater management and erosion control plan, consistent with Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire, Rockingham County Conservation District, August 1992, as amended, shall be prepared and submitted to the Planning and Zoning Office for review. No building permit shall be issued until such time as the Planning and Zoning Administrator has reviewed and approved said plan.
- (5) Septic systems:
  - (a) For any new construction, no individual sewage disposal system (ISDS) shall be installed any closer than 100 feet to any surface water or wetland area.
  - (b) For any expansion of an existing structure, or the seasonal conversion of an existing structure, the owner shall conform to RSA 485-A:38 and the associated Code of Administrative Rules for Subdivision and ISDS Design Rules, as amended.
  - (c) For a new subdivision development for which ISDSs are proposed, if the

lots are under five acres, then all plans and permit applications shall conform to all relevant NH DES rules and regulations. For lots that are greater than five acres, all plans and permit applications shall show an area of 4,000 square feet, with test pit and percolation test data to verify the site suitability for a septic system.

- (d) If any septic assessment or an on-site inspection indicates that the existing system is in failure, a plan for a replacement system shall be submitted to NH DES within the next 30 days.
- E. General performance standards for all activities and land uses: No new underground storage tanks for flammable or combustible liquid fuels shall be allowed.
- F. Exceptions: If the property owner or his/her designee can document that property, or a portion of a property, which is shown to be inside of the Webster Lake Watershed Overlay District is outside of the Webster Lake Watershed, and said documentation is accepted by the Planning and Zoning Administrator, then the provisions of the Webster Lake Watershed Overlay District shall not apply.
- G. Enforcement: The enforcement of these provisions shall adhere to the provisions of § 305-38 of the Franklin Zoning Ordinance.

**§ 305-29.4. Shed buildings.** [Added 2-7-2005 by Ord. No. 07-05]

Shed buildings, as defined in this chapter, shall be located no closer than 10 feet away from a property line under the following conditions:

- A. The front of the shed shall not pass the parallel line of the front of the principal structure.
- B. No more than one shed shall be located on any residential lot.

**§ 305-29.5. Storage containers.** [Added 2-7-2005 by Ord. No. 07-05]

Storage containers, as defined in this chapter, are allowed with the following conditions:

- A. Storage containers are permitted on any lot used for commercial or industrial businesses within the I-1, I-2, B-1, B-2 Zones, as long as all required yard setbacks are maintained and the Planning and Zoning Administrator issues a permit for said use.
- B. Preexisting, nonconforming commercial or industrial uses located within any residential zone may locate a storage container on the property only after the issuance of a special exception from the Zoning Board of Adjustment.
- C. Manufactured homes, travel trailers, or any type of recreational or passenger vehicles shall not be used as storage containers in any zoning district.
- D. Storage containers cannot be used in conjunction with home occupations.
- E. Storage containers are permitted to be used in conjunction with the construction of any residential building during the time for which there is a valid building permit and the Administrator issues a permit for this use. Such containers must be removed

when the building permit is no longer valid. The permit to allow the use of a storage container associated with a building permit must be renewed when the building permit is renewed on a yearly basis. The Planning and Zoning Administrator reserves the right to not renew a permit for a storage container if he/she finds and determines that the applicant cannot provide a date by which the building activity is to be completed.

**§ 305-29.6. Travel trailers/recreational vehicles.** [Added 2-7-2005 by Ord. No. 07-05; 4-3-2006 by 07-06]

Travel trailers/recreational vehicles are under the following conditions:

- A. The trailer or vehicle, which must be current with its registration, shall not be hooked up to any utility, except for the purpose of charging batteries or filling water storage tanks, prior to regular seasonal usage.
- B. A property owner or lessee may accommodate one travel trailer or recreational vehicle, as defined, for a nonpaying guest in his/her yard for a period of time not to exceed 15 days in any one year, with the condition that sanitation facilities are operated in conformance with all state codes and regulations.
- C. One additional travel trailer or recreational vehicle, not owned by the property owner, may not be used but may be stored on the property as long as the lot and yard setback requirements for the zone are maintained.
- D. A travel trailer or recreational vehicle may, when approved by the Administrator, be used, for a period not to exceed six months, as temporary housing when located on a property for which the principal housing structure has been demolished, damaged or destroyed by fire, flood, explosion or other casualty and said structure is being rebuilt, or for a new residential structure being constructed, and a valid building permit is in place. The Administrator may, as long as there is a valid and active building permit, extend for up to one additional six-month period the use of said temporary housing. Approved or acceptable waste disposal procedures, in conformance with applicable DES requirements, must be in place in order to receive approval.

**§ 305-29.7. Seasonal conversion.** [Added 2-7-2005 by Ord. No. 07-05]

- A. The conversion of a structure from a seasonal use to a year-round use is allowed, following the issuance of a permit from the Planning and Zoning Administrator, under the following circumstances:
  - (1) If the structure is not on public sewer, the applicant shall provide evidence to the Administrator that approval for the existing septic system to handle septic flows resulting from full-time occupancy has been received from by the New Hampshire Department of Environmental Services, Water Supply and Pollution Control Division, under the provisions of RSA 485-A. In the alternative, the applicant can document that a newly installed septic system for the structure has been approved by NHDES.
  - (2) All dimensional setbacks must be maintained if any structural changes are

made in footprint size or volume during the course of the conversion.

- (3) If applicable, all requirements of the state's Comprehensive Shoreland Protection Act must be met.
  - (4) The applicant must demonstrate that adequate off-street parking is available.
  - (5) The proposed project must adhere to all other provisions of the Franklin Zoning Ordinance, including any appropriate overlay districts.
  - (6) A certificate of occupancy is required.
- B. Any request for a seasonal conversion which is beyond the conditions outlined above requires a special exception from the Zoning Board of Adjustment to permit the Conversion. If dimensional setbacks for any proposed additions cannot be met, then the applicant must also file for a variance.

**§ 305-29.8. Family apartment.** [Added 2-7-2005 by Ord. No. 07-05; amended 4-3-2006 by Ord. No. 07-06]

The purpose of this provision is to provide a housing alternative for a family member(s), while maintaining neighborhood aesthetics and quality. The conditions and regulations below are intended to insure that the apartment unit does not take on the character of a second dwelling unit and to insure that the apartment unit can be easily converted back into the existing single-family structure. All proposed family apartments shall be designed and constructed in conformance with the following conditions and regulations in order to qualify for a special exception:

- A. The dwelling to which a family apartment is to be added must be owner-occupied.
- B. The owner(s) of the single-family dwelling must be related to the proposed occupant of the family apartment by blood, marriage, or adoption.
- C. The applicant or owner of the principal dwelling must prepare and record with the Merrimack County Registry of Deeds a restrictive covenant outlining the occupancy requirements for the family apartment and any specific language required by the Zoning Board.
- D. The property and the structure (both existing and with any proposed additions) must conform to the front, side, and rear yard dimensional requirements of § 305-14 or any setbacks permitted as part of a cluster subdivision.
- E. The single-family dwelling shall not be a manufactured home or condominium.
- F. If the structure is located within a cluster subdivision, then the creation of the family apartment must be accomplished within the existing footprint, with only the addition of a separate entrance and associated porch being permitted.
- G. The family apartment shall be designed so that the appearance of the building remains that of a single-family house. Any new entrance that may be required shall be located on the side or in the rear of the building. At least one access point to the family apartment shall be from and through the interior of the primary residential

structure.

- H. Only one family apartment shall be allowed within a single-family house.
- I. The size of the family apartment shall be as follows:
  - (1) If the assessed living area of the primary residential dwelling is smaller than 1,200 square feet, the apartment shall not be greater than 400 square feet.
  - (2) If the assessed living area of the primary residential dwelling is greater than 1,200 square feet, the apartment shall not be greater than 1/3 of the square footage of that assessed living area, but in no case shall it exceed 720 square feet.
- J. In no case shall there be more than two persons residing within a family apartment.
- K. Off-street parking shall be available on the property. The number of available parking spaces shall not be less than three. The Board may waive this requirement upon a finding of the adequacy of the available parking.
- L. All family apartments shall be created within an existing single-family dwelling or a proposed addition. No apartment shall be created within an accessory structure.
- M. A building permit must be obtained for the creation of the family apartment, and an occupancy permit must be obtained prior to the use of the apartment.
- N. Prior to the issuance of a building permit for the creation of the apartment, the owner or a representative shall present to the Planning and Zoning Administrator information satisfactory to prove that the existing septic system or a new or modified system is in place to accommodate any additional flows from the Apartment.
- O. If the single-family dwelling that receives a special exception permit for a family apartment is sold, then the permit shall cease. If the purchaser of the dwelling wants to continue the apartment in conformance with all conditions and regulations outlined in this chapter, then he/she must reapply for a permit within six months of the purchase of the dwelling.
- P. If the individual for whom the family apartment was permitted and created vacates the family apartment, then the permit shall cease. It is the obligation of the property owner to inform the Planning and Zoning Office when the individual residing in the family apartment vacates the apartment.