

# ZONING LAW

For the

**Town**

**of**

**FRANKLIN, NEW YORK**

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**Original Law Prepared by:**

Town of Franklin  
Delaware County Planning Department

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**MARCH 2007**

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# TOWN OF FRANKLIN – ZONING LAW

## ARTICLE I. PROVISIONS

### **Section 101 Title**

This Ordinance shall be known and cited as the "*Town of Franklin, New York, Zoning Law*" and shall include this text and zoning map.

### **Section 102 Enacting Clause**

Pursuant to the authority conferred by Article 16 of the Town Law of the State of New York, the Town Board of the Town of Franklin hereby adopts and enacts as follows.

### **Section 103 Purpose and Intent**

The purpose of this Ordinance, its regulations and its zoning districts as outlined on the zoning map is to:

- A) protect the open and natural character of the land;
- B) provide for planned growth of agricultural, residential, commercial and industrial use of the land consistent with the economic and social needs of the community and its comprehensive development policies;
- C) preserve the town's natural resources and habitats;
- D) encourage and make suitable provisions for the accommodation of solar energy systems and access to sunlight necessary therefore;
- E) conserve the economic and aesthetic value of property;
- F) promote the health, safety and general welfare of the public.

The regulations and districts have been developed with reasonable consideration as to, among other things, the nature of development in the surrounding region, the character of each district and its suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate uses of land throughout the town.

### **Section 104 Conflict With Other Laws**

Whenever the requirements of this Law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards shall govern.

## **TOWN OF FRANKLIN – ZONING LAW**

### **Section 105 Interpretation**

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety, or the general welfare.

### **Section 106 Validity and Separability**

Should any section or provisions of this Ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part other than the part so decided to be unconstitutional or invalid.

### **Section 107 Periodic Review.**

The Town Board shall comprehensively review this Ordinance periodically. Periods between such reviews shall not exceed five (5) years. The Town Board shall consult with the Planning Board, Zoning Board of Appeals and Zoning Officer in conducting this review.

### **Section 108 Effective Date**

This Ordinance shall take effect ten (10) days after publication or summary publication in a newspaper having general circulation in the town; but said Ordinance shall take effect from the date of its service as against a person served personally with a copy thereof, certified by the Town Clerk under the corporate seal of the town, and showing the date of its passage and entry in the minutes.

# **TOWN OF FRANKLIN – ZONING LAW**

## **ARTICLE II. DEFINITIONS OF KEY TERMS**

**ACCESSORY BUILDING** - A building subordinate to the main building located on the same lot. Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building.

**AGRICULTURAL PRACTICES** - The use of the land for the raising of crops, horticulture, livestock, commercial gardening and the necessary accessory uses for packing, treating and storing the produce.

**ALTERATION** - A change or rearrangement in the structural parts of a building or an enlargement, whether by extending to a side or by increasing the height.

**ALTERNATIVE ENERGY GENERATION, RESIDENTIAL** – Including solar, wind, hydro-electric and other non-nuisance energy systems to be used for residential use.

**ALTERNATIVE ENERGY GENERATION, COMMERCIAL** – Including the production of solar, wind, or hydro-electric power; alternative fuel production such as bio-diesel or ethanol, and the drilling and processing of natural gas.

**ANIMAL HOSPITAL** - A business that treats animals and regularly houses them on the premises overnight and for extended periods of time.

**ANIMAL HUSBANDRY** - The care and breeding of domestic animals, including, but not limited to, cattle, hogs, horses, poultry and sheep. For purposes of this law, the operation of a kennel shall not be considered animal husbandry. Animals for educational or cultural projects are exempted.

**APPLICANT** - Is the person or entity filing an application under this Ordinance.

**ARTIST STUDIO** – A place of work for an artist, artisan, or craftsperson, including persons engaged in the application, teaching, or performance of fine arts such as, but not limited to, drawing, vocal or instrumental music, painting, sculpture, and writing.

**AUTOMATED TELLER MACHINE** -- A device linked to a financial institution's account records, which is able to carry out transactions, including but not limited to account transfers, deposits, cash withdrawals, balance inquiries and mortgage and loan payments.

**BANK, SAVINGS** - A financial institution organized for the purpose of accumulating and loaning the funds of its members, stockholders, and depositors.

**BED & BREAKFAST** - Bed and breakfast dwelling. Owner occupied one-family dwelling used for providing overnight accommodations and a morning meal to not more than ten transient lodgers, containing at least three but not more than five bedrooms for such lodgers.

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**BLACKSMITH SHOP**- A place of work for a blacksmith engaged in the creation of objects from iron or steel by "forging" the metal by using hand or power tools to hammer, bend, cut and otherwise shape it in its non-liquid form. Products such as wrought iron gates, grills, railings, light fixtures, furniture, sculpture, and other items are created in blacksmith shops.

**BOARDING HOUSE** - A dwelling or part thereof, other than a hotel, motel, or restaurant having not more than six guest rooms and housing not more than fifteen persons for compensation. Meals may or may not be provided.

**BUILDABLE SITE** - A site able to support a habitable structure with adequate access, utilities, water and a septic system designed to meet NYSDOH standards.

**BUILDING** - A structure wholly or partially enclosed with exterior walls and a roof, affording shelter to persons, animals or property.

**BULK STORAGE** - The storage of chemicals, petroleum products, grains and other materials in structures for subsequent resale to distributors or retail dealers or outlets.

**BUSINESS AND PROFESSIONAL OFFICES** - A building used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity.

**CAMPGROUND** - A plot of ground upon which two or more campsites are located, established or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, education or vacation purposes.

**CAMPING UNIT** - Any tent, trailer, cabin, lean-to or similar structure established or maintained and operated in a camp ground as temporary living quarters for recreation, education or vacation purposes.

**CEMETERY** - Property used for the interring of the dead.

**CLUB** - Any organization catering exclusively to members and their guests, or premises and buildings, for recreational or athletic purposes and not open to the general public, which are not conducted primarily for gain, provided there are no vending stands, merchandising or commercial activities, except as required for the membership and purposes of such club. Clubs shall include lodges, fraternal organizations, social and service organizations; gun, hunt and fish clubs, mutual benefit societies, and other like organizations.

**CODE ENFORCEMENT OFFICER** - An individual appointed by the Town Board and given the responsibility to administer and enforce this zoning law.

**COMMERCIAL RECREATION** - A parcel of land which may include facilities for recreation purposes, utilized by the public for a fee. Activities include, but are not limited to, bowling alleys, ski slopes, tennis courts and golf courses.



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**CONVENIENCE STORE** – A retail establishment up to 5,000 square feet selling primarily food products, household items, newspapers and magazines, candy, and beverages, and a limited amount of freshly prepared foods such as sandwiches and salads for off-premises consumption.

**CULTURAL RECREATION** - Indoor or outdoor establishments promoting social and intellectual advancement, such as libraries, museums, art galleries, concert halls and performing art theatres, but excluding movie houses and drive-ins.

**DETENTION BASIN** - Are usually dry basins that fill with water during a storm event. They work by delaying the storm water so that it is released at a rate that mimics the predevelopment flow.

**DISH ANTENNA** - Any concave, circular or dish-shaped device designed for receiving communication or television signals from space, but does not include conventional television, radio and amateur radio antennas.

**DWELLING** - A building designed or used as the living quarters for one or more families. The term dwelling shall include seasonal homes, modular homes, and mobile homes, provided that they meet all of the requirements of this local law, the building code, and all other regulations or ordinances applicable to dwellings.

**DWELLINGS, FARM LABOR** - A building containing only one dwelling unit and occupied by one family, members of which are employed on the farm; one such dwelling shall be permitted for each 50 acres of the farm.

**DWELLINGS, ONE-FAMILY** - A detached building containing one dwelling unit only.

**DWELLINGS, TWO-FAMILY** - A detached building containing two dwelling units only.

**DWELLING, MULTI-FAMILY** - A building containing three or more dwelling units, including units that are located one over another.

**DWELLING, TOWNHOUSE** - A one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside; no unit is located over another unit; and each unit is separated from any other unit by one or more common fire resistant walls.

**DWELLING UNIT** - A building, or entirely self-contained portion thereof, containing housekeeping facilities for only one family, including any domestic servants employed on the premises, and having no enclosed space (other than vestibules, entrances or other hallways or porches) and no cooking or sanitary facilities in common with any other "Dwelling unit." A boarding house, dormitory, hotel, inn, nursing home or similar structure shall not be deemed to constitute a dwelling unit.

**EATING AND DRINKING ESTABLISHMENT** – Retail establishments selling food and drink for consumption on the premises, including lunch counters and refreshment stands selling *prepared* food and drinks for on-site consumption.

## **TOWN OF FRANKLIN – ZONING LAW**

**EDUCATIONAL INSTITUTION** - An institution, either public or private, providing full-time day instruction and a course of study which meets the requirements of the New York State Education Law and/or the New York State Health Code.

**FAMILY** - One or more persons occupying a single dwelling unit and living as a single, nonprofit housekeeping unit.

**FARM** - A parcel of land used for agricultural activities including the production, storage, keeping, harvesting, grading, packaging, boarding, or maintenance, for sale, lease, of plants and animals useful to humans.

**FINANCIAL GUARANTEE** - A financial security in an amount sufficient to guarantee the installation of basic public improvements. Such improvements may include, but are not limited to, public water supply, sewage disposal systems, storm drains and sewers, roads, pavement markings, traffic signs and signals and sidewalks. Acceptable financial securities must be approved by the Town Attorney and the Town Board and may be in one of several forms, including, but not limited to, a performance bond executed by a surety company, a certified check, or an irrevocable letter of credit drawn in favor of the Town.

**FLAG LOT** - A lot not meeting the required frontage along a public road and where access is by a narrow strip of land.

**FLOOD PLAIN** - Normally dry land that is partially or completely inundated from the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface waters from any source with a frequency of at least once in every one-hundred (100) years.

**FOREST MANAGEMENT PRACTICES** - Management of natural vegetation for timber harvesting, firewood, wildlife habitat improvement, and water quality.

**FUNERAL HOME** – A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

**GARAGE, PRIVATE** - An accessory building or part of a principal building used for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein.

**HABITABLE FLOOR AREA** - The total number of square feet of floor space within a building, which is enclosed and usable for human occupancy or the conduct of business. Unheated basements and attached garages are excluded.

**HEIGHT** - The vertical distance measured from the average elevation of the finished grade to the high point of a structure.

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**HOME OCCUPATION** - A profession or vocation, full-time or part-time, conducted entirely within a dwelling by the inhabitants thereof, or within a building or other structure accessory to the dwelling, which use is secondary to the use of the dwelling for dwelling purposes and does not change the character thereof.

**HOME PROFESSIONAL OFFICE** – A home occupation consisting of the office of a practitioner of a recognized profession including but not limited to an attorney, dentist, doctor, engineer, or planner.

**HOTEL** - An establishment which provides accommodations for a fee to transient guests and where only a general kitchen and dining room are provided.

**JUNKYARD** - Any area of land including buildings thereon which is used primarily for the collection, storage and sale of waste paper, rags, scrap metal or material, or for the collection, dismantling and storage or salvaging of machinery or vehicles stored outside.

**KENNEL** - A place for the care and/or breeding of dogs as defined in the Agricultural Markets Law, Section 107.

**LIGHT MANUFACTURING** - A use engaged in the manufacture, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

**LOT** - A parcel of land considered as a unit, occupied or capable of being occupied by a principal building or use and accessory buildings or uses, or by a group of buildings united by a common use or interest; and including such open spaces as are required by these regulations, and having its principal frontage on a public street or an officially approved place.

**LOT AREA** - The total horizontal area included within lot lines, except that no part of the area within a public right-of-way may be included in the computation of the area.

**LOT, CORNER** - A lot located at the intersection of and fronting on two or more intersecting streets, and having an interior angle at the corner or intersection of less than 135 Degrees.

**LOT COVERAGE** - The proportion of a lot area that is covered by impervious surface including buildings and off-street parking areas.

**LOT DEPTH** - The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

## **TOWN OF FRANKLIN – ZONING LAW**

**LOT LINES** - The property lines bounding the lot, including:

- Lot Line, Front - The lot line separating the lot from the street right-of-way.
- Lot Line, Rear - The lot line opposite and most distant from the front lot line.
- Lot Line, Side - Any lot line other than a front or rear lot line.

**LOT, THROUGH** - A lot having frontage on two approximately parallel, or converging streets other than a corner lot.

**LOT WIDTH** - The distance between side lot lines measured parallel to the front lot line at a distance from the front lot line equal to the front yard specified for the district.

**LUMBERYARD** - An area and structures used for the storage, distribution and sale of finished or rough-cut lumber and lumber products.

**MANUFACTURING** - Establishments engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquors.

**MEDICAL/HEALTH CARE CENTER** - A facility or institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, and home health care agency.

**MINERAL EXTRACTION** - Operations extracting greater than 1,000 tons per year of material such as gravel, rock, stone, sand, fill or minerals from the surface or below the ground.

**MOBILE HOME** - A factory-built, one-family dwelling constructed on a chassis to facilitate its transportation to the site. Such structure shall be at least twelve (12) feet wide and not less than 55 feet long. Such structure shall be a self-contained single unit (excludes modular homes) and shall meet the standards of the New York State Uniform Fire Prevention and Building Code. A mobile home shall not be construed to be a travel trailer or recreational vehicle.

**MOBILE HOME PARK** - A parcel of land under single ownership which has been specifically planned and improved for the long term placement (over thirty (30) days) of three or more mobile homes for nontransient use.

**MOTEL** - A building or group of buildings providing individual sleeping accommodations complete with bathrooms for travelers. Each lodging unit has direct access to the outside and a parking spot.

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**NURSING HOME** – Any establishment where three or more persons suffering from or afflicted with or convalescing from any infirmity, disease or ailment are habitually housed for remuneration, other than municipal or incorporated hospitals and establishments licensed by the State Commissioner of Mental Hygiene and maternity homes licensed by the State Commissioner of Health.

**OCCUPIED BUILDING** - Means a residence, school, hospital, church, public library or other building used for public gathering that is occupied or in use when the permit application is submitted.

**OPEN SPACE** - An area between buildings, or between a building and a boundary line of the parcel, that is situated for recreation, gardening, or other outdoor activities conducive to the principal lot use and size. Such space is free of automobile traffic, parking and undue hazards as well as being readily accessible to all those by whom it shall be used.

**OUTDOOR RECREATION** - Any recreational use particularly oriented to and utilizing the outdoor character of a parcel, including, but not limited to: snowmobile, trail bike, jeep and all-terrain vehicle trails; bicycle trail, horse trail, playground, picnic area or similar use.

**PARKING SPACE** - An off-street paved or surfaced space which, exclusive of access driveways and turning areas, is nine feet wide by nineteen feet long and which is accessible and available for the parking of one motor vehicle.

**PERFORMANCE BOND** - See FINANCIAL GUARANTEE.

**PERMITTED USE** - For the purpose of this law, any use which is allowed by right in a zoning district without review by the Planning Board.

**PERSONAL SERVICE SHOPS** – Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel.

**PUBLIC UTILITY FACILITIES** – Buildings, structure, and facilities, including generating and switching stations, poles, lines, pipes, pumping stations, repeaters, antennas, transmitters and receivers, valves, and all buildings and structures relating to the furnishing of utility services, such as electric, gas, telephone, water, sewer, and public transit, to the public.

**RECREATION, ACTIVE** - Leisure time activities, usually of a formal nature and often performed with others, requiring equipment and taking place in prescribed places, sites, or fields.

**RECREATION, PASSIVE** - Activities that involve relatively inactive or less energetic activities, such as walking, sitting, picnicking, and hiking.

**RECREATIONAL VEHICLES AND EQUIPMENT** - Includes boats and boat trailers, pick-up campers or coaches (designed to be mounted on automotive or truck vehicles), motorized dwellings, travel trailers, and the like.

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**RESTAURANT** – An establishment where food and drink are prepared, served, and consumed on premises to patrons seated at tables and served by a waiter or waitress or where food is taken out by patrons for home consumption.

**RETAIL STORE** - Enclosed store for sale of retail goods, personal service shop, department store, and restaurant; shall exclude any drive-up service, free-standing retail stand, gasoline service and motor vehicle repair service, new and used car sales and service, trailer and mobile home sales and service.

**RETENTION BASIN** - A basin that holds water in a pool. The only outlet is through an emergency spillway that allows the basin to overflow in a controlled manner should it become too full. The retention basin loses water through infiltration and evaporation but is designed with capacity to hold the runoff from average storm events.

**ROAD** - A public or private way which affords the principal means of access to abutting properties.

**ROAD RIGHT-OF-WAY** - The right-of-way line of a road as indicated by usage, dedication, or by deed or record.

**ROADSIDE STAND** - A permanent or temporary structure used for the display, support, and protection of products with the intent to sell to buyers.

**SELF-STORAGE FACILITY** -- A public facility for storage of personal, household or business property which is serviced by the owner of the stored property or an agent of the owner for periods of at least 60 days or greater. The term "self-storage facility" includes all similar uses and terms but shall not be construed to mean warehouse.

**SERVICE ESTABLISHMENT** - Establishments providing services or entertainment, as opposed to products, to the general public, including personal, business, repair, educational, and other services, including but not limited to, coin-operated laundry, cleaning and garment services, photographic studios, beauty shops, barber shops, shoe repair, funeral services, clothing rental, and reducing salons.

**SERVICE STATION** - Any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, greasing, washing, servicing, adjusting, fueling, or equipping of automobiles or other motor vehicles.

**SETBACK, FRONT** - The required open space extending across the entire width of the lot between the road right-of-way line and the front of the main building.

**SETBACK, REAR** - The required open space extending across the entire width of the lot between the rear lot line and the back of the main building.

**SETBACK, SIDE** - The required open space extending from the rear setback line and the front setback line between the side lot line and the side of the main building.

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**SHOPPING CENTER** - Two or more commercial establishments planned, constructed, and managed as a total entity with: customer and employee parking provided on-site, and provisions for goods delivery separated from customer access.

**SIGN** - Any structure which is in the nature of an announcement, direction, advertisement or any other similar message either free standing or printed on a building or structure.

**SIGN AREA** - The entire area within which a single continuous perimeter enclosing all elements of the sign which form an integral part of the display. The structure supporting the sign shall be excluded unless the structure is designed in such a way to form an integral background for the display.

**SIGN, GROUND** - A freestanding sign, other than a pole sign, in which the entire bottom is in contact with or close to the ground.

**SIGN, POLE** – A sign which is mounted on a free standing pole or other support so that the bottom edge of the sign face is six feet or more above grade.



**Photos Above:** Examples of ground signs.

**SITE PLAN** - A plan of a lot on which is shown topography, location of all buildings, structures, roads, right-of-ways, boundaries, all essential dimensions and bearings and any other information as provided for under Article VII of this local law.

**SPECIAL PERMIT USE** - A use which, because of unique characteristics, requires a Special Permit in accordance with Article VI of this Local Law.

**STRUCTURE** - Anything constructed or erected, the use of which requires location on the ground or attached to something having a location on the ground.

**SUBDIVISION, SIMPLE** - Any division of land where no more than three (3) lots are created and where each lot is at least one (1) acre in size and has one hundred fifty feet (150') frontage on an existing public road. A Simple Division allows division of a parcel twice but never to exceed a total of three (3) lots.

**SUBDIVISION, MAJOR** - Any subdivision of land not classified as a Simple Division or Minor Subdivision, including, but not limited to any subdivision creating more than six (6) lots or any size subdivision which will require the construction of a new road to provide access or the extension of other municipal facilities.

**SUBDIVISION, MINOR** - Any subdivision of land, not classified as a Simple Division, containing more than three (3) and not more than six (6) lots, fronting on an existing road, not requiring any new road, or the extension of municipal facilities, or creation of public improvements.

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**SUBSTANTIAL IMPROVEMENT** - Any extension, repair, reconstruction, or other improvement of a structure, the cost of which equals or exceeds fifty (50) per cent of the fair market value of the structure, either before the improvement is started or, if the property has been damaged and is being restored, before the damage occurred. The term does not include any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

**TAVERN** – An establishment in which alcoholic beverages are served, primarily by the drink, and where food or packaged liquors may also be served or sold.

**THEATER** – A building or part of a building used to show motion pictures or for drama, dance, musical or other live performances.

**VARIANCE** - An approved departure from the literal requirements of the zoning law.

**VARIANCE, AREA** – Shall mean the authorization by the zoning board of appeals for the use of the land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

**VARIANCE, USE** - Shall mean the authorization by the zoning board of appeals for the use of the land for a purpose which is otherwise not allowed or prohibited by the applicable zoning regulations.

**WATERSHED AREA** - The drainage area in which all of the surface runoff is concentrated into a particular stream or tributary.

**WAREHOUSE** - Storage facilities operated for a specific commercial establishment or group of establishments in a particular industrial or economic field.

**WHOLESALE** - Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

**WIND ENERGY CONVERSION SYSTEM (“WECS”)** - A machine that converts the kinetic energy in the wind into a usable form such as a "wind turbine" or "windmill." These are regulated pursuant to the Town’s Wind Energy Facilities Local Law.

**ZONING DISTRICT** - Is an area within the Town of Franklin for which the regulations and requirements governing land use and structures upon it are uniform.

**ZERO LOT LINE** - The location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot line.



# TOWN OF FRANKLIN – ZONING LAW

## ARTICLE III. DISTRICTS AND DISTRICT MAPS

### **Section 301 Establishment of Districts**

For the purpose specified in this Ordinance, the Town of Franklin is divided into the following districts:

- A) Rural I
- B) Rural III
- C) Rural V
- D) Hamlet
- E) Public Water Supply
- F) Development Limitations Overlay District

### **Section 302 District Map**

All land within the Town of Franklin shall fall within one or more of the zoning districts. The boundaries of said districts are hereby established as shown on the "Zoning Map of the Town of Franklin", dated with all explanatory matter thereon and amendments thereto, which map is hereby adopted and made part of this Ordinance. A copy of said map, including the latest amendments thereto, shall be kept up to date and filed in the Town Clerk's office for the use and benefit of the public.

### **Section 303 Interpretation of District Boundaries**

- A) The district boundary lines are intended generally to follow the center lines of rights-of-ways or Town boundary lines, all as shown on the Zoning Map. The R-I District shall encompass all lands within 500 feet of the center line of all State and County highways; the R-III District all lands within 500 feet of the center line of all year-round Town Roads; the R-V District all lands not within 500 feet of the centerline of an existing Town, County or State right-of-way and lands fronting on Town "Seasonal Use Only" Roads; the H-Hamlet District includes the hamlet of Treadwell as defined on the Zoning Map; and the PWS District encompasses all lands within a 500-foot radius of the public water supply wells for the Village of Franklin and hamlet of Treadwell as shown on the Zoning Map.
- B) In cases of uncertainty as to the true location of a district boundary line in a particular instance, the Code Enforcement Officer shall request the Zoning Board of Appeals to render a determination.
- C) Where a district boundary line divides a lot of record at the effective date of this Ordinance or any subsequent amendments thereto, the regulations for the less restricted part shall extend not more than fifty feet (50') into the more restricted part, provided the lot has frontage on a road in the less restricted district.

## TOWN OF FRANKLIN – ZONING LAW

### **Section 304 Determination of Development Limitations Overlay District Boundaries**

Where uncertainty exists with respect to the boundaries of the Development Limitations Overlay Districts, the Franklin Town Planning Board shall determine the extent of the development limitation in question. The Planning Board may consider detailed slope, elevation and watershed boundary information in making this determination. Any applicant aggrieved by a decision of the Planning Board under this Section may appeal to the Zoning Board of Appeals pursuant to Section 905 (B)(1).

# TOWN OF FRANKLIN – ZONING LAW

## ARTICLE IV. DISTRICT REGULATIONS

### **Section 401 Application of Regulations**

Except as hereinafter provided, no building, structure or land shall be used or occupied unless for a use expressly permitted by, and in conformity with, the general and supplementary regulations specified in this Ordinance for the district in which it is located.

No building shall be erected, nor existing building be altered, enlarged, or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity with the yard, lot area and building location regulations hereinafter designed for the district in which such building or open space is located.

### **Section 402 Intent**

The legislative intent of Article IV is to set forth land uses or activities which are permitted in the Town of Franklin, to specify and designate the districts in which each use or activity will be permitted, with or without special conditions, or after a special permit has been granted, and to establish appropriate density, area, and other bulk regulations which will be applicable within each district.

### **Section 403 Schedule of Regulations**

- A) Regulations for land uses or activities permitted in the various land use districts, or land uses or activities having special permit conditions attached to them, or requiring a special permit are set forth in Schedule I – Table of Use Regulations at the end of the Zoning Law. Regulations for lot size, yards, building height and similar density, area and other bulk requirements are set forth in the following text and in Table II – Table of Dimensional Regulations. Schedules I & II are hereby adopted and made part of this Ordinance.
- B) This Ordinance shall not interfere with or abrogate or anul any easement, covenant or other agreement between parties; provided, however, that when this Ordinance imposes a greater restriction on the use of buildings or land or on the height of buildings or requires larger open spaces or imposes any higher standards than those imposed or required by any other state, law, ordinance, rule or regulation, or by any easement, covenant or agreement, the provisions of this Ordinance shall control. Where the requirements of this Ordinance differ from the requirements of another statute, law, ordinance, rule or regulation, the more restrictive shall govern.
- C) Any land use not specifically listed for a zoning district shall be deemed to be a prohibited use for that district.

## TOWN OF FRANKLIN – ZONING LAW

### Section 404 Rural-I District

- A) Description: This district encompasses all lands within five hundred feet (500') of the center line of State and County highway, with direct frontage on the right-of-way. For the purposes of this Section, state and county highways are those roads maintained by the County or State as of the effective date of this Ordinance, as identified on the Zoning Map.
- B) Purpose: To allow for a variety of mixed uses that would be common and appropriate for a high-volume, good access road.
- C) Permitted Uses
- 1) One, one- or two-family dwelling per lot
  - 2) One mobile home per lot
  - 3) Agricultural practices
  - 4) Forestry management
  - 5) Wildlife management
- D) Special Permit Uses: See "Schedule I"
- E) Accessory Uses
- 1) Private garage
  - 2) Swimming pool
  - 3) Home occupation (home professional office, etc.)
  - 4) Barn, storage shed, greenhouse, garden house, tool shed
  - 5) Roadside stand
  - 6) Signs
  - 7) Dish antennae
  - 8) Solar equipment
  - 9) Exterior spot lighting
  - 10) Private stable/hobby farm
  - 11) Recreational vehicles
  - 12) Farm labor dwelling, no more than two
  - 13) Other customary accessory uses and buildings, provided such uses are clearly incidental to the principal use and does not include any activity commonly conducted as a business.
- D) Density, Height, Area and Yard Requirements
- 1) Minimum lot size: One (1) acre
  - 2) Minimum frontage: Two hundred fifty feet (250')
  - 3) Maximum height: Thirty-five feet (35')
  - 4) Front Setback: One hundred feet (100') from highway center line
  - 5) Side/rear setback: Twenty feet (20')
  - 6) Maximum lot coverage: Twenty-five percent (25%)
  - 7) Maximum lot depth to width ratio: 4:1; for each increment in ratio, the frontage shall be extended fifty feet (50')

## TOWN OF FRANKLIN – ZONING LAW

### Section 405 Rural-III District

A) Description

This district encompasses all lands within five hundred feet (500') of the center line of a town road, with direct frontage on the right-of-way. For the purposes of this Section, town roads are those roads maintained by the Town as of the effective date of this Ordinance as identified on the Zoning Map, but not including seasonal use roads.

B) Purpose

To allow for lower density development of residential, agriculture and limited commercial establishments.

C) Permitted Uses

- 1) One, one- or two-family dwelling per lot
- 2) One mobile home per lot
- 3) Agricultural practices
- 4) Forestry management
- 5) Wildlife management

D) Special Permit Uses: See "Schedule I"

E) Accessory Uses: Same as "Rural-I"

F) Density, Height, Area and Yard Requirements

- 1) Minimum lot area: Three (3) acres
- 2) Minimum frontage: Three hundred feet (300')
- 3) Maximum height: Thirty-five feet (35')
- 4) Front setback: Seventy-five feet (75') from road center line
- 5) Side/rear setback: Twenty-five feet (25')
- 6) Maximum lot coverage: Twenty per cent (20%)
- 7) Maximum lot depth to width ratio: 4:1

## TOWN OF FRANKLIN – ZONING LAW

### Section 406 Rural-V District

A) Description

This district includes all lands not within five hundred feet (500') of an existing town, County or State right-of-way and lands fronting on Town "Seasonal Use Only" roads, as designated on the Zoning Map.

B) Purpose

To permit only low density residential development with limited commercial uses.

C) Permitted Uses

- 1) One, one- or two-family dwelling per lot
- 2) One mobile home per lot
- 3) Agricultural practices
- 4) Forestry management
- 5) Wildlife management

D) *Special Permit Uses: See "Schedule I"*

E) Accessory Uses: Same as "Rural I"

F) Density, Height, Area and Yard Requirements

- 1) Minimum lot area: Five (5) acres
- 2) Minimum frontage: Three hundred fifty feet (350')
- 3) Maximum height: Thirty-five feet (35')
- 4) Front setback: Seventy-five feet (75') from road center line
- 5) Side/rear setback: Thirty feet (30')
- 6) Maximum lot coverage: Fifteen per cent (25%)
- 7) Maximum lot depth to width ratio: 4:1

## TOWN OF FRANKLIN – ZONING LAW

### Section 407 Hamlet Districts

A) Description: The hamlet of Treadwell, as denoted on the Zoning Map.

B) Purpose

The purpose of the Hamlet District is to recognize that the crossroads community is a unique area where residential and commercial business uses exist in harmony, providing necessary basic services for the surrounding community and residences for those people who provide services.

C) Permitted Uses

- 1) One, one- or two-family dwelling per lot
- 2) One mobile home per lot
- 3) Agricultural practices
- 4) Forestry management
- 5) Wildlife management

D) Special Permit Uses: See "Schedule I"

E) Accessory Uses: Same as "Rural-I"

F) Density, Height, Area and Yard Requirements

- 1) Minimum lot area: One-half (1/2) acre
- 2) Minimum frontage: One hundred feet (100')
- 3) Maximum height: Thirty-five feet (35')
- 4) Front setback: Fifty-five feet (55') from road center line
- 5) Side/rear setback: Twenty feet (20')
- 6) Maximum lot coverage: Twenty-five per cent (25%)
- 7) Maximum depth to width ratio: 3:1

## TOWN OF FRANKLIN – ZONING LAW

### **Section 408 Public Water Supply District (PWS)**

A) Description

This district includes all lands within a five-hundred-foot (500') radius of the public water supply wells and springs for the Village of Franklin and hamlet of Treadwell (see map).

B) Purpose

Wellhead areas are portions of the land's surface from which recharge water flows underground directly into the well. When the well is pumped, the groundwater surrounding the well is removed causing a depression in the height of the water table, and thus inducing a flow towards the well. Contamination that enters groundwater within this "cone of depression" is certain to eventually reach the pumping well.

C) Permitted Principal Uses: None

D) Permitted Accessory Uses: None

E) Special Permit Uses

- 1) One, one- or two-family dwelling per lot
- 2) One mobile home per lot
- 3) Agricultural practices
- 4) Forest management
- 5) Wildlife management practices
- 6) Public utilities and facilities
- 7) Public parks and recreation facilities
- 8) Accessory uses listed for R-I district

F) Density, Height, Area and Yard Requirements

- 1) Minimum lot size: 10 acres
- 2) Minimum frontage: 300 feet
- 3) Maximum height: 35 feet
- 4) Front setback: 200 feet from right-of-way
- 5) Side/rear setback: 30 feet
- 6) Maximum lot coverage: 10%
- 7) Maximum lot depth to width ratio: 4:1



## TOWN OF FRANKLIN – ZONING LAW

### Section 409 Development Limitations Overlay District

#### A) Description

This district is an overlay district and includes all lands shown on the Development Limitations Maps on file in the Town Clerk's office and are hereby declared to be part of this Ordinance. The development limitations shown on the maps are:

- 1) Flood hazard areas, including, but not limited to, those areas identified by the Federal Insurance Administration on its Flood Hazard Boundary Map No. H 01-10, dated January 18, 1988, and as may be amended.
- 2) Freshwater Wetlands as defined and protected by the New York State Freshwater Wetlands Act.
- 3) Steep slope areas of 15% or more.
- 4) High elevation areas of 2000 feet or greater.

#### B) Purpose

The purpose of this overlay zone is to protect the Town from overdevelopment in and around natural areas important to the people and future of the Town of Franklin.

#### C) Review Procedures

##### 1) Zoning Permits

The Code Enforcement Officer shall review all zoning permit applications to determine if construction is proposed in the Flood Hazard Area or within one-hundred (100') feet of a New York State regulated wetland. No zoning permit for any construction in the Flood Hazard Area shall be issued until the Planning Board has issued a Special Permit for such construction. No zoning permit shall be issued for any construction within one-hundred feet (100') of a New York State regulated wetland until the applicant has obtained applicable approvals from the NYSDEC.

##### 2) Special Permits and Site Plans

The Planning Board shall require that plans comply with the New York State Wetlands Act and Local Law No. 1 of 1987, Flood Damage Prevention, prior to issuance of special permits or approval of site plans.

##### 3) Subdivisions

As part of the subdivision review process, the Planning Board shall determine the applicability of the development limitations requirements, pursuant to Section 304.

## TOWN OF FRANKLIN – ZONING LAW

### D) Density, Height, Area and Yard Requirements

#### 1) Maximum Number of Subdivision Lots

Whenever the original parcel being subdivided has more than fifty (50) percent of its land area in one or more Development Limitations, the maximum number of lots that may be allowed shall be as follows:

<u>District</u>	<u>Maximum Number of Lots Allowed per acre of Original Parcel</u>
R-1	0.44
R-3	0.15
R-5	0.09

- 2) Minimum lot size: same as underlying district
- 3) Minimum frontage: Same as underlying district
- 4) Maximum height: Same as underlying district
- 5) Front setback: Same as underlying district
- 6) Side and rear setbacks: Same as underlying district
- 7) Maximum lot coverage: Same as underlying district
- 8) Maximum lot depth to width ratio: Same as underlying district

### **Section 410 (RESERVED)**

### **Section 411 Lot Size Averaging**

#### A) Concept

Lot Size Averaging is designed to control density while allowing the creation of smaller lots than would otherwise be permitted in a particular district. The overall result will be a combination of larger and smaller lots permitting a more diversified form of development than usually takes place.

#### B) Conditions

- 1) The average size of all lots proposed must not be less than three (3) acres in the R-3 District and five (5) acres in the R-5 District.
- 2) One dwelling unit per district minimum lot size
- 3) Minimum lot size for all districts is one acre.
- 4) Undersized lots are limited to 20 per cent of the total lots proposed.
- 5) All lots shall have a buildable and accessible site.
- 6) All lots shall conform to this Ordinance and the Town of Franklin Subdivision Regulations.
- 7) Lot Size Averaging shall be used only once every 20 years per original subdivision.
- 8) Sufficient separation between septic and wells must be provided on smaller lots to prevent contamination of wells which shall be approved the NYSDOH.

## TOWN OF FRANKLIN – ZONING LAW

### **Section 412 Equivalent Uses**

Any use of land or buildings not specifically listed in Schedule I for the applicable zoning district is not permitted. In the case of any dispute over the meaning of a word, phrase, sentence, definition or of Schedule I, the Code Enforcement Officer is hereby authorized to make a definitive determination thereof, being guided in such determination by the purposes and intent of this Ordinance as set forth in Article I. Any determination made by the Code Enforcement Officer may be appealed to the Zoning Board of Appeals in the manner prescribed in Article IX.

- A) When a use is not specified in Schedule I, a landowner may request in writing the Planning Board to initiate an amendment to this Ordinance to provide for the use. The Planning Board shall act upon said request within 90 days and may pass a resolution to provide for the use if it finds that:
  - 1) There is no clear intent to exclude such uses; and
  - 2) The proposed use is appropriate within the zoning district and would have no more adverse effects on other uses within the zoning district, or on use in adjoining districts, than would uses of the same general character permitted in the zoning district.
  - 3) The proposed use is compatible with the Comprehensive Plan.
- B) Upon the passage of such a resolution by the Planning Board, the Planning Board and Town Board shall proceed to act upon the proposed amendment as set forth in Section 910.

### **Section 413 (RESERVED)**

### **Section 414 (RESERVED)**

# TOWN OF FRANKLIN – ZONING LAW

## ARTICLE V. SUPPLEMENTARY REGULATIONS

### **Section 501 Applicability**

Land uses and activities in the Town of Franklin which are regulated by this Ordinance shall be subject to additional requirements and to limitations and exceptions as set forth in this Article V.

### **LOT CHARACTER**

### **Section 502 Calculation of Building Coverage**

In determining percentage of building coverage of a lot or size of yard, all principal buildings, roofed porches, garages, carports, and other accessory buildings shall be included.

### **Section 503 Corner Lots**

Front yard setbacks are required on both road frontages and one yard other than such front yards shall be deemed to be a rear yard and the other a side yard.

### **Section 504 Existing Lots**

Notwithstanding the limitations imposed by any other provisions of this Ordinance, the Code Enforcement Officer shall issue a building permit for the construction of a permitted principal building or structure on a lot, which does not meet the minimum lot size and minimum frontage requirements of this Ordinance, provided such substandard lot was on record in the County Clerk's Office prior to the enactment of this Ordinance.

### **SECTION 505 FLAG LOTS**

Flag lots may be permitted by the Planning Board during the subdivision process, where appropriate, and only under the following conditions:

- A) The minimum lot area requirement shall be calculated exclusive of the narrow access strip connecting the lot with the public road.
- B) Minimum front, side and rear setback requirements shall be met, excluding the access strip.
- C) Access strips shall be a minimum of 60 feet wide.
- D) No more than one flag lot shall be served by an access strip.

## TOWN OF FRANKLIN – ZONING LAW

- E) Only one residence is permitted per flag lot.
- F) Access strips shall be at least 300 feet apart, or the minimum lot width in the Zoning District, whichever is greater.
- G) No flag lots in simple subdivisions.
- H) No more than two flag lots per minor subdivision.
- I) Two lots, or no more than 10 per cent of the lots, whichever is greater, shall be flag lots in a major subdivision.
- J) Access strips up to 1400 feet in length may be allowed provided the grade does not exceed 10%. Grades up to 12% are allowed provided the access strip does not exceed 800 feet.
- K) Access strips shall not be a right-of-way, but shall be owned in fee title by the owner of the flag lot parcel, and will at no time be taken over by the Town of Franklin as a public road.
- L) The maximum permitted flag length shall not be greater than four times the minimum required frontage of the Zoning District in which the property is located.

### Section 506 Landscaping Requirements

- A) Landscape Plan Required - When an application is submitted for site plan review or a special permit, the application shall be accompanied by a Landscape Plan. The Planning Board shall review the Landscape Plan to determine compliance with these Landscape Requirements. The Landscape Plan shall include sufficient information to determine compliance with this Section, and shall as a minimum contain the following information:
  - 1) The date, scale, north arrow, title, and name of owner.
  - 2) A minimum scale of not less than one-inch equals twenty (20) feet.
  - 3) All existing and proposed buildings and other structures, paved areas, planted areas, power poles, light standards, fire hydrants, signs, fences, sidewalks, and other permanent features to be added and/or retained on the site.
  - 4) The general location of all trees to be preserved or retained on the site.
  - 5) The location of all plants and landscaping material to be used including paving, benches, screens, or other landscape features.
  - 6) A delineation of the designated landscaped area.
  - 7) A list of the species of all plant material to be used.
  - 8) A list of the size and height of all plant material to be used.

## TOWN OF FRANKLIN – ZONING LAW

### C) Landscaping Standards:

- 1) Landscape Area Percentage – An area not less than fifteen (15%) of the total lot area to be developed shall be landscaped. No area shall be maintained with bare soil. All ground surfaces not used for buildings, sidewalks, roadways, or other impermeable surfaces shall be covered with live grass, turf, shrubbery, trees, ground cover, flowering plants or appropriate mulching and only those areas with live plant materials shall be included in the calculation for determining compliance with the percentage of lot coverage.
  
- 2) Front Yard Landscape Setback - There shall be a landscape setback area having a minimum width of twenty (20) feet adjacent to all public rights-of-way. Loading areas, outside storage and outside display areas shall not encroach into the landscape setback. No parking or maneuvering areas are permitted within the landscape setback with the exception of ingress and egress drives. The landscape setback shall contain grass, ground covers, shrubs, trees, or any combination thereof, as provided herein.  

The landscape setback shall contain at a minimum:

  - a) Required Trees – Within the landscape setback, one (1) tree with a minimum diameter at breast height of 2 ½ inches shall be planted per fifty (50) feet, or fraction thereof, of street frontage.
  - b) Parking Lot Screening – A hedge consisting of shrubs that are at least two feet in height shall be planted three (3) feet on center shall be provided between the off-street parking area and the public right-of-way. Shrubs shall be planted a minimum of two feet off the back of curbs or from the edge of the off-street parking area.
  - c) Required Shrubs - Ten (10) small shrubs, shall be planted per fifty (50) linear feet, or fraction thereof, of street frontage. Shrubs planted for parking lot screening may be used to satisfy this requirement.
  - d) The required landscape setback landscaping shall not count toward parking lot screening or parking area landscaping requirements.
  
- 3) Side and Rear Yard Landscape Setback: A landscape buffer of at least twenty (20) feet shall be required for the side yards and the rear yard. Where existing trees are retained within this buffer, no additional plantings shall be required. If no trees exist within the side or rear yards, one (1) tree with a minimum diameter at breast height of 2 ½ inches shall be planted per fifty (50) feet along the property lines in the side and rear yards.

## TOWN OF FRANKLIN – ZONING LAW

- 4) Residential Buffer: In addition to the requirements noted above, when a nonresidential land use, multi-family development or mobile home park abuts an existing residence or a vacant parcel where residential development could occur, a six (6) foot high wood opaque fence shall be required along the side and rear yards to screen adjacent residential uses. The fence shall be installed so that the finished side of the fence faces the adjoining residential property. If the adjacent residential lot is vacant, the Planning Board may waive this requirement until such time that a residence is constructed on the adjoining parcel at which point the required residential buffer fence shall be installed by the nonresidential land use, multi-family development or mobile home park developer.
- 5) Parking Lot Landscaping: When more than twenty (20) off-street parking spaces are required for a proposed use the following additional landscaping standards shall apply within off-street parking areas.
  - a) All landscaping within the parking lot shall be located within a landscape island. The island shall be delineated from the surrounding paved area by a curb or barrier of not less than six inches in height around the perimeter of the island. The curb or barrier shall be constructed of masonry, concrete, or heavy timber. Each island shall be located entirely within the confines of the parking and maneuvering area.
  - b) Two large trees shall be planted for every twenty (20) parking spaces.
  - c) All landscape islands shall be landscaped with shrubbery, flowering plants, mulch and at least two large trees.
  - d) All parking lots with greater than twenty (20) spaces must be at least 5% landscaped. This percentage counts toward the overall landscape requirement for the lot.

### **Section 507 Vision Clearance at Intersections**

Clear vision shall be maintained in the triangular area of a corner lot formed by intersecting road lines and line connecting them at points thirty feet (30') distance from their intersection. In such area no tree, shrub or other planting shall be placed or permitted to remain and no structure shall hereafter be permitted which obstructs sight lines at elevations between two and six feet above the road grade.

## **TOWN OF FRANKLIN – ZONING LAW**

### **Section 508 Zero Lot Line**

When multiple dwelling construction takes the form of townhouse units, where each unit has one or both side walls in common with an adjacent unit, the side yard requirements shall apply only to the end unit in the row.

### **USES - GENERAL**

### **Section 509 Abandonment of Construction and Excavation**

- A) Within three months following a construction project or the demolition or abandonment of a building or structure, all construction materials shall be removed from the site and excavation filled to normal grade by owner.
- B) Unfenced excavation shall not be carried for a period in excess of sixty days. In hardship cases, an extension may be granted by the Code Enforcement Officer.
- C) If the owner fails to cover over or fill such excavation after 30 days notice by the Code Enforcement Officer, the Town Board may order said excavation to be covered or filled and shall charge the owner of said property any costs connected therewith.

### **Section 510 Erection of More Than One Principal Structure on a Lot**

In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot provided that yard, minimum lot size, and other requirements of this Ordinance shall be met for each structure as though it were on an individual lot.

### **Section 511 Height Exceptions**

The height limitations of this Ordinance shall not apply to barns and silos, private home antennae, spires, belfries, cupolas, water tanks, ventilators, chimneys, solar equipment, windmills, transmission towers, flag poles, skylights, or other appurtenances usually required for human occupancy.

### **Section 512 Minimum Habitable Area**

- A) One-family and two-family dwellings shall have a habitable floor area of at least eight hundred (800) square feet.
- B) No habitable rooms are permitted in basements of multiple-family dwellings, unless a separate outside entranceway is provided to all habitable areas.



## TOWN OF FRANKLIN – ZONING LAW

### **Section 513 Off-Street Parking Requirements**

For every building hereafter erected, altered or changed in use, there shall be provided off-street parking spaces as set forth in the following:

USE	REQUIRED PARKING SPACES
Automobile Sales	1 space per 1,000 sq. ft. of utilized site area
Auto Repair/Gasoline Service Station	1 per 300 sq. ft. of floor area, plus one per service bay
Banks	1 space per 300 s.f. of floor area.
Bed & Breakfast Establishment	2 spaces for primary dwelling unit, plus 1 per guest room
Business and Professional Office	1 space for each 300 sq. ft. of office space
Car Wash	1 space per two washing bays and 1 space per vacuum
Convenience Store	1 space per 250 sq. ft. floor area
Dwelling Unit (Single-Family)	2 parking spaces per dwelling unit
Dwelling Unit (Multi-Family)	2 per dwelling unit, plus ½ space per unit for guests
Farm Stands	1 per 250 sq. ft of retail floor area
Golf Courses/Clubs	10 parking spaces for each tee
Greenhouses/Nurseries	1 space for each 300 sq. ft. of retail sales area
Home Occupation	1 space in addition to dwelling unit requirements
Home Professional Office	2 parking spaces, plus 1 space per 250 sq. ft. of office
Hotels / Motels	1 space per rental unit, plus 1 space for each 2 employees
House of Worship	1 space for every 4 seats
Industrial	1 space for each 400 sq. ft. of floor area
Medical/Dental Offices	3 spaces per doctor or dentist, plus 1 for each 2 employees
Personal Service Shop	1 per 200 sq. ft. of floor area
Restaurants	1 space for every 4 seats
Retail Sales	1 space per 250 sq. ft. of floor area
Self-Storage Facility	1 space per 20 rental units, plus 2 for office
Unspecified Uses	As required by the Planning Board based on use intensity, turnover, customers, and employees.
Veterinary hospital	1 space for each 5 cages plus 1 space per employee
Warehouse Storage	1 space for each 400 sq. ft. of floor area

**Parking for Persons with Disabilities:** Any person, firm or corporation owning a shopping center or facility with at least five separate retail stores and at least twenty off street parking spaces which are provided for use by the public must designate as only for the handicapped and clearly mark for use by the handicapped a minimum of five percent of such parking spaces or ten such spaces whichever is less. These spaces must be located as close as reasonably practicable to the business and reasonably distributed so as to provide convenient access for use by handicapped drivers.

## TOWN OF FRANKLIN – ZONING LAW

### A) Dimensional Requirements

Each parking space shall have a minimum width of nine (9) feet and a minimum length of twenty (20) feet and shall be served by suitable aisles to permit access and automobile maneuverability into all parking spaces. Total parking area must provide a minimum of 300 square feet per parking space, including access, egress and circulation.

### B) Location of Facility

All off-street parking facilities required under this Ordinance shall be constructed on or adjacent to the site of main use or on a lot directly across an adjoining road from main use.

### C) Off-street Loading Requirements

All commercial and industrial structures, erected after the adoption of this Ordinance, shall provide adequate off-street loading facilities. Such facilities shall be sufficient in size to eliminate the projection of vehicles into a street right-of-way.

## **Section 514 Performance Standards**

In all districts uses are not permitted which exceed the following standards measured at individual property lines. The Planning Board, under its powers of site plan review and approval, shall decide whether uses meet the standards. Uses shall meet State air and water pollution standards and shall not:

- A) Emit noise in excess of 70 decibels, dbA scale, of a standard sound level meter
- B) Emit odor which is considered offensive
- C) Emit dust or dirt which is considered offensive
- E) Emit noxious gases or smoke which endanger health, comfort, safety, or welfare of any person, or have a tendency to cause injury or damage to property, business or vegetation
- F) Cause, as a result of normal operations, a vibration which is detectable to normal senses on adjoining property.
- G) Create harmful waste to be discharged into sewer, streams, or bodies of water, or to be stored on said property.
- H) Cause a fire, explosion or safety hazard
- I) Cause harmful waste to be discharged into sewer, streams, or bodies of water, or to be stored on said property.
- J) All farms and farm uses are exempt.

## TOWN OF FRANKLIN – ZONING LAW

### **Section 515 (RESERVED)**

### **Section 516 Structures to Have Access**

Every building hereafter erected or moved shall be on a lot adjacent to a public road, or with access to an approved private road, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

### **Section 517 Temporary Building Permit**

The Planning Board may authorize the issuance of a temporary building permit by the Code Enforcement Officer for uses and structures incidental to construction on the premises. Such uses and structures may include the storage of building material and equipment, a real estate office for the sale of property on the premises, and a construction office for work being done on the premises. Such permit shall be authorized for a period of one year and may be extended for two similar periods when the Code Enforcement Officer finds such work has been diligently pursued.

### **USES - SPECIFIC**

### **Section 518 Accessory Buildings**

A permitted accessory building, except for farm purposes may be located in any required side or rear yard, provided:

- A) Such building shall not exceed thirty-five (35) feet in height.
- B) Such building shall be set back ten (10) feet from any lot line and at least ten feet (10') from the main building if not attached to the main building.
- C) An accessory building that does not have a permanent foundation and is less than eighty (80) square feet in floor area shall be exempt from side and rear setback requirements in all districts.

### **Section 519 (RESERVED)**

### **Section 520 Campgrounds**

## **TOWN OF FRANKLIN – ZONING LAW**

The following additional standards must be provided for in the site plan before an annual operating permit for a campground can be issued.

- A) Evidence that all State Health Department regulations of campgrounds will be met.
- B) A twenty-five foot (25) planted or natural landscaped border will be provided for an all perimeters of the campground property.
- C) A minimum of ten acres of land will be used for the campground.

### **Section 521 Dish Antennae**

All dish antennae shall be located in either the side or rear yards unless the owner can prove his only "window of reception" is in the front yard.

### **Section 522 Exterior Spotlighting**

In no case shall any exterior spotlighting be directed toward the highway so as to interfere with the vision or attract the attention of the driver of a motor vehicle, nor shall the light be directed toward any other lot or cause excessive illumination of neighboring lots.

### **Section 523 Garage Sales**

Garage sales shall be limited to 15 days per calendar year. Any garage sale operating for more than fifteen (15) days per calendar year shall be classified as a business and subject to the requirements of such.

### **Section 524 Home Occupations**

Must shall meet the standards of the New York State Uniform Fire Prevention and Building Code and the following conditions:

- A) The occupation or activity shall be carried on wholly with in the principal building or within a building or other structure accessory thereto. An area equivalent to no more than twenty-five (25) percent of the floor area of the dwelling shall be used for the occupation and in no case more than 500 sq. ft. Such area shall be within the dwelling or another structure accessory thereto. No outdoor storage is permitted.
- B) Not more than two (2) persons outside the resident household shall be employed in the occupation or as assistants.
- C) There shall be no exterior display or sign except as permitted under this Ordinance, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the lot or of the surrounding neighborhood.
- D) No offensive odor, noise, vibration, smoke, dust, heat or glare shall be produced.

## **TOWN OF FRANKLIN – ZONING LAW**

- E) Any need for parking generated by the occupation shall be met off the street and in accordance with the regulations of this Ordinance.
- F) No more than one home occupation shall be permitted per residence.
- G) No more than one (1) commercial-type vehicle shall be used in connection with the occupation and/or be parked on the property.

### **Section 525 Household Pets**

Refer to Franklin Town Law #2, 1986.

### **Section 526 Junkyards**

Shall not be permitted in the Town of Franklin. The provisions of the State Junkyard Law (General Municipal Law, Section 136) are hereby adopted by reference and shall apply to all junkyards as defined in this Ordinance in existence at the time this law is adopted.

### **Section 527 Lot Included in Two or More Districts**

Portions of land zoned R-5 may be included in lots hereafter subdivided and located in Hamlet, R-1, and R-3 districts provided that:

- A) The portion of the lot located in Hamlet, R-1, or R-3 is at least the minimum size for the district; and
- B) Minimum lot depth the width ratio for the Hamlet, R-1, or R-3 district may not be exceeded by the lot as a whole.

### **Section 528 Mobile Home Parks**

Refer to Mobile Home and Mobile Home Park Local Law of the Town of Franklin, New York, adopted November 4, 1981.

### **Section 529 Mobile Homes**

Refer to Mobile Home and Mobile Home Park Local Law of the Town of Franklin, New York, adopted November 4, 1981.

### **Section 530 Model Homes**

The Planning Board may authorize the Code Enforcement Officer to issue permits for model homes, either in the singular on a parcel of land or with other model homes for the public to visit and inspect. Model homes on display shall be required to meet all setback and parking requirements as prescribed in this Ordinance.

### **Section 531 Parking, Storage or Use of Recreational Vehicles and Equipment**

## **TOWN OF FRANKLIN – ZONING LAW**

- A) Developed lots (with habitable dwellings) shall be exempt.
- B) Undeveloped lots (without habitable dwellings): parking and storage of recreational vehicles shall be restricted to four months of every calendar year. Noncomplying lots shall comply within one (1) year from the adoption date.

### **Section 532 Public Utility Facilities**

Public utility substations and similar structures, shall comply with the following:

- A) Facility shall be surrounded by a fence set back from property lines in conformance with district regulations for front, side and rear yards.
- B) Landscaped area at least fifteen feet (15') wide shall be maintained in front, side and rear yards.
- C) There shall be no equipment visible from surrounding properties.
- D) Utility poles and attendant lines will be allowed, as necessary, in all districts.

### **Section 533 Roadside Stands**

All stands shall be set back at least twenty-five feet (25') from the centerline of the street in the R-1 District.

### **Section 534 Seasonal Business**

All seasonal use businesses or establishments must comply with the parking requirements of this Ordinance within one year of the adoption date.

## TOWN OF FRANKLIN – ZONING LAW

### Section 535 Signs

All land use activities permitted by Schedule I of this Ordinance, all variances and special permits, may provide signs if such signs are in accordance with the specifications set forth in this Section 535.

#### A) General Provisions

- 1) A permit issued by the Code Enforcement Officer shall be required for the erection, alteration or maintenance of all signs except as may otherwise be set forth in Section 535 (C) below.
- 2) In general, and unless otherwise specified in this Section 535, signs shall be located on the premises they advertise and shall not flash or move, or have the appearance of flashing or moving.
- 3) Unless otherwise set forth in this Section 535, no sign shall be located less than ten feet (10') from any road right-of-way line or overhang any portion of land ten feet (10') from the road right-of-way line. This provision shall not apply to those signs needed for public safety and traffic control.
- 4) Ground signs are permitted provided the top edge of the sign face is not higher than seven (7') feet above grade. The graded area surrounding the ground sign shall be landscaped with shrubs and other vegetative cover. Where a ground sign is placed between two wood or masonry columns, at least one foot of clear space between the sign board and the ground shall be maintained.
- 5) Pole signs are prohibited.
- 6) Unless otherwise set forth in this Section 535, no illuminated sign shall be permitted or installed in a rural district (R-1, R-3, R-5).
- 7) All signs shall be properly repaired and painted as necessary to maintain their appearance.
- 8) Temporary signs erected for thirty (30) days or less shall not require a permit and shall be removed immediately at, or before, the end of such thirty (30) day period. Temporary signs, banners, pennants, movable signs, etc., erected for a period of time no longer than thirty (30) days, shall be by permit only and shall be removed immediately when circumstances leading to their erection no longer apply. An extension may be granted by the Code Enforcement Officer.



**Above:** Examples of ground signs.

## TOWN OF FRANKLIN – ZONING LAW

### B) Signs Permitted in All Districts Without a Permit

The following types of signs are permitted in all districts without a permit when such signs are not illuminated, and no more than one (1) in number faces each street line. Real estate signs are limited to two (2) in number.

- 1) Temporary signs as set forth in Section 535, A-7 above.
- 2) Nameplate and identification signs not larger than three (3) square feet.
- 3) Home occupation or office sign not exceeding nine (9) square feet.
- 4) Real estate signs not larger than six (6) square feet each in area.
- 5) Sign required by law or needed for governmental business or public safety.
- 6) Identification sign for a farm that is painted on a barn or a silo.

### C) Signs Permitted by Permit

Signs by permit under the conditions set forth in Section 535 as follows:

- 1) One unlighted sign, not exceeding ten (10) square feet in area, advertising the sale or rent of the property upon which such sign is located, provided that such sign shall be set back from the road line not less than one-half (1/2) the required front yard depth.
- 2) One bulletin board, not exceeding twenty (20) square feet in area, for public, charitable, and religious institutions.
- 3) An identification sign, not exceeding four (4) square feet related to an accessory office or home occupation permitted on the premises.
- 4) For Bed & Breakfasts, one ground sign not exceeding twelve (12) square feet.
- 5) In districts where permitted, identification signs for business establishment, retail store, restaurant, bank and similar land use when such signs do not exceed two (2) in number for each premises identified and do not have a total (aggregate) area larger than forty (40) square feet. Such signs may be both free-standing ground signs and attached to, or part of, the building and shall be located no less than twenty (20) feet from any property line.
- 6) In districts where permitted, identification signs for commercial recreation and amusement facility, automobile sales establishment, wholesale, bulk storage and warehouse facility, woodworking, plumbing, building supply and similar land use when such signs do not exceed two (2) in number for each premises identified and do not have a total (aggregate) area larger than forty (40) square feet in area. Such signs may be both free-standing ground signs and attached to, or part of the facade of a building, and shall be located no less than twenty (20) feet from any property line.



## TOWN OF FRANKLIN – ZONING LAW

- 7) Identification signs for a manufacturing, industrial, research or similar land use, such signs do not exceed two (2) in number for each premises identified, each of which is not larger than forty (40) square feet in area. Such signs may be free-standing ground signs and attached to, or part of, a building and shall be located no less than twenty-five feet (25') from any property line.
- 8) Identification signs for a gasoline service station, service and repair garage and similar land use, when such signs do not exceed two (2) in number for each premises identified and do not have a total (aggregate) area larger than forty (40) square feet. Such signs may be free-standing ground signs and attached to, or part of, the facade of a building and shall be located no less than twenty feet (20) from any property line. Additional small advertising signs shall not exceed two (2) in number, each of which shall not exceed six (6) square feet.

### **Section 536 Swimming Pools**

Shall meet the applicable standards of the New York State Uniform Fire Prevention and Building Code and require a permit issued by the Town Code Enforcement Officer.

### **Section 537 Yard Maintenance**

All exterior property and premises shall be maintained in a clean, safe and sanitary condition. No large appliances (washing machines, stoves, refrigerators, etc.) trash, car parts, furniture, and other debris shall be stored on front or side yards of the property. All lots must comply within one year of the adoption date.

### **Section 538 Commercial and Industrial Location Limitations**

All newly established commercial and industrial uses, as classified in Schedule I, shall meet the following location limitations: The proposed use is not permitted if a residential dwelling is located within one-thousand (1,000) feet of the proposed site at the time of application.

# TOWN OF FRANKLIN – ZONING LAW

## ARTICLE VI. SPECIAL PERMITS

### **Section 601 Purpose**

It is the intent of this Section to use Special Permits to control the impacts of certain uses upon areas where they will be incompatible unless conditioned in a manner suitable to a particular location.

### **Section 602 Administration**

The Town Planning Board will administer the review and granting of Special Permits. Any addition or alteration to uses and buildings authorized by Special Permit requires approval of the Planning Board.

### **Section 603 Procedure**

- A) The applicant shall submit a completed application to the Planning Board a minimum of 14 days prior to the regular monthly meeting. A completed Environmental Assessment Form shall be submitted at this time in accordance with the State Environmental Quality Review Act.
- B) The application for a Special Permit may be made by the owner of the property or other person with written approval of the owner. Such application shall include a site plan in accordance with Article VI, Site Plan Review. The applicant or representative shall attend the Planning Board meetings where the application is reviewed
- C) At the meeting when the application is reviewed, the Planning Board shall determine whether a public hearing is necessary. If a public hearing is held, it must be held within sixty-two (62) after the completed application is submitted to the Planning Board and with ten (10) days public notice in the official newspaper. In addition, the applicant shall give notice in writing by Certified Mail to all property owners of the land immediately adjacent to, extending five-hundred (500) feet therefrom and directly opposite thereto, extending five-hundred (500) feet from the road frontage of the land in the application. The applicant shall mail these notices at least ten (10) days in advance of the hearing and furnish the Planning Board with Post Office receipts as proof of notification.
- D) The Planning Board shall render a decision, at a regular or special meeting, either approving, approving with conditions or denying a Special Permit application within sixty-two (62) days of the public hearing or, if no hearing is held, within ~~45~~ sixty-two (62) days of receipt of the completed application. The Board shall notify the applicant in writing of it decision.
- E) A Special Permit shall be construed to authorize only one particular special use.

## **TOWN OF FRANKLIN – ZONING LAW**

### **Section 604 Standards Applicable to All Special Permit Uses**

Before granting a Special Permit, the Planning Board shall be satisfied that all of the following conditions have been met; The Planning Board is authorized to condition Special Permits to ensure compliance with these conditions (See Section 605, Conditions):

- A) The proposed development is compatible with nearby properties and will not discourage the appropriate development and use of adjacent properties or impair their value.
- B) Traffic generated by the proposed development can be adequately and safely served by the existing and proposed roads.
- C) The proposed development will not adversely affect community appearance.
- D) The proposed development can be served by necessary community facilities and will not overtax such facilities. This includes providing adequate access for emergency vehicles as required by New York State Town Law, Section 280-a.
- E) Operation of any special use shall not be more objectionable to nearby properties by reason of dust, odor, noise, fumes, vibration, excessive lighting, or water pollution than would the operation of any permitted use.
- F) Special uses shall not conflict with the Comprehensive Plan.
- G) Solar access of adjacent properties is not obstructed by said use.
- H) All State Environmental Quality Review requirements have been met.
- I) No Special Permit shall be issued for a property where there is a violation of this Ordinance or other Town law or regulation.

### **Section 605 Conditions**

The Planning Board, in granting Special Permits, may impose such conditions, safeguards and restriction upon the proposed development as may be deemed necessary in the public interest to secure compliance with the provisions of this Ordinance. Conditions may include, but are not limited to the following:

- A) The hours of operation;
- B) Access to the subject property;
- C) Protection of surface and groundwater;
- D) Lighting of the site, to include intensity and shielding, so as not to adversely affect adjacent or nearby property owners;
- E) Adequate sewage disposal and water supplies;
- F) Sound limitations as needed to ensure peaceful enjoyment of neighbors;
- G) The location, size, height, design of building, walls, fences, landscaping and buffer yards;

## TOWN OF FRANKLIN – ZONING LAW

- H) Covenants, easements, and/or homeowners' association for maintenance of applicable restrictions;
- I) Timing or phasing of the development;
- J) Underground utilities;
- K) Control of dust, smoke, odor and soil erosion; and
- L) Bonding as required to ensure standards are met and plans are implemented.

### **Section 606 Individual Standards for Special Uses**

- A) Savings Banks
  - 1) Service lanes for drive up windows or exterior mounted automated teller machines shall be of sufficient length to allow for the stacking of vehicles entirely on-site and outside of ingress and egress driveways.
  - 2) Surveillance cameras shall be provided to view and record all persons entering any automated teller machine facility located within the interior of a building or which shall view and record all activity occurring within a minimum of three (3) feet in front of an automated teller machine located on an exterior wall of a building open to the outdoor air. The recordings made by such cameras shall be preserved by the bank for at least thirty (30) days.
- B) Bed & Breakfast: All bed-and-breakfasts shall comply with the applicable provisions of the New York State Uniform Fire Prevention and Building Code and the rules and regulations promulgated thereunder.
  - 1) Minimum lot size required is the the same as the Zoning District requirements.
  - 2) Minimum house size is two thousand (2,000) square feet.
  - 3) The owner of the bed-and-breakfast must reside in and continue to reside in the dwelling as his/her/their principal residence. The owner will provide a sworn statement certifying to such residency upon request of the Code Enforcement Officer.
  - 4) The parcel improved by the bed-and-breakfast shall provide or establish two (2) off-street parking spaces for the members of the owner's family residing in the dwelling unit as well as at least one (1) parking space per room or unit let. Further, said parking spaces shall not be established or permitted in the front yard of the site and shall be located or screened from view so as to provided no variation from the residential character of the site.
  - 5) Each bed-and-breakfast shall be established, maintained and operated so as to preserve and compliment the residential character and integrity of the surrounding area.
  - 6) The number of paying guests accommodated per night shall not exceed ten (10) persons within a maximum number of five (5) guest rooms. Further, no guest shall stay for a period of time in excess of fourteen (14) consecutive days.

## TOWN OF FRANKLIN – ZONING LAW

- 7) Each bedroom occupied by a paying guest shall be equipped with a properly installed and functioning smoke detector. Further, a smoke detector shall be properly installed and functioning on or near the ceiling in the room or hallway from which each bedroom rented to paying guests exists.
- 8) The Code Enforcement Officer shall be given such access to the dwelling as he/she deems necessary from time to time for the purpose of making inspections to ensure compliance with all federal, state and local codes, rules and regulations, including the New York State Uniform Fire Prevention and Building Code. Such inspections may be made with or without prior notice thereof.
- 9) A single exterior sign may be established on the site of the bed-and-breakfast. Said sign shall not exceed twelve (12) square feet in area. No ground sign shall be located less than ten (10) feet from the front property line nor less than twenty (20) feet from the side property line. Further, said sign shall be as unobtrusive as reasonably possible and may be illuminated by no more than two (2) exterior uplit or downlit lighting fixtures which shall be shielded so as to prevent glare, etc.
- 10) The driveway entrance or exit shall not exceed fifteen (15) feet in width.
- 11) The Planning Board shall have the right to impose and include such other and additional conditions as it may deem necessary to effectuate the purpose of this Ordinance.
- 12) The owner shall not make any change, deviation, modification or variation from the application and site plan once the same is approved by the Planning Board.

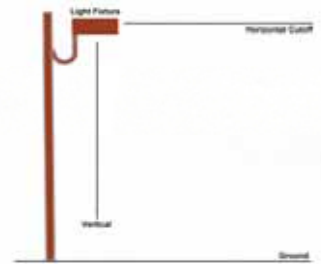
### C) Service Stations

Service stations shall conform to the following standards which shall be regarded as minimum requirements:

- 1) Minimum lot size and specifications.
  - a) Same as minimum lot size for Zoning District in which site is located.
  - b) At least one (1) lot frontage and width shall be a minimum of one hundred (100) feet.
- 2) Fuel pumps and other service devices shall be located at least fifty (50) feet from any front lot line and fifty (50) feet from any side and rear lot lines. This distance shall be measured from the outside edge of the fuel island.
- 3) All automobile parts, including tires and dismantled vehicles, are to be stored within a building or screened from public rights-of-ways.
- 4) Accessory goods for sale may be displayed on the pump island and the building island only, if provided for in a suitable stand or rack.
- 5) All repair work is to be performed within a building. Automobiles waiting to be serviced or stored on the premises shall not encroach on any required yard area. Wrecked automobiles being held for insurance adjuster inspection must be stored in the rear of the premises and screened to the greatest extent possible.

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- 6) Parking
- a) Parking spaces shall be provided in accordance with Section 513 of this Ordinance and shall be designed to not conflict with the traffic pattern established for the use of the fuel pumps.
  - b) Where parking areas abut a residential use, they shall be screened by a buffer area no less than twenty (20) feet in depth, composed of densely planted plant material, along with an opaque fence which, in the opinion of the Planning Board, will be adequate to prevent the transmission of headlight glare across the onto residential properties. Such buffer screen shall have a minimum height of six (6) feet above finished grade at the highest point of the parking area. The materials used shall be in keeping with the character of the adjacent residential area. If said shrubbery or fences becomes decayed and fails to provide an adequate screen, the Code Enforcement Officer may direct the property owner to replace said shrubs or fences.
- 7) A maximum of two (2) driveways and curb cuts shall be permitted per street frontage. These shall be no less than twenty (20) and no wider than thirty (30) feet in width and located a minimum of thirty (30) feet from any street intersection, and a minimum distance of thirty (30) feet shall be maintained between such driveways and curb cuts.
- 8) Lighting shall have a full cut-off lens that does not allow light to shine above a 90 degree angle measured from the vertical line from the center of the lamp as shown in the illustration to the right.
- 9) No service station shall be open between the hours of 11:00 p.m. and 6:00 a.m.



### D. Self-Storage Facility

- 1) Self-service storage facilities shall be limited to long-term storage use only. No activities other than rental of storage units and pickup and deposit of long-term storage items shall be allowed. "Long-term storage" will be defined as the storage of goods or materials for a period of 60 days or greater.
- 2) Prohibited activities within a self-service storage facility include but are not limited to the following: commercial wholesale or retail sales; auctions, garage sales or flea markets; servicing, repair or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances or similar equipment; the operation of power tools, spray-painting equipment, table saws, lathes, compressors, welding equipment, kilns or other similar equipment; the establishment of transfer storage businesses; and any use that is noxious or offensive because of odors, dust, noise, fumes or vibrations, but nothing contained herein shall prohibit enforcement of the provisions of the New York State Lien Law. None of the aforementioned conditions shall restrict the facility owner from performing maintenance on this facility.

## TOWN OF FRANKLIN – ZONING LAW

- a) All rental contracts shall include clauses prohibiting:
  - i. The storage of flammable liquids and highly combustible, radioactive or explosive materials, hazardous chemicals or substances considered illegal under state or federal statutes.
  - ii. The use of property for uses other than long-term storage.
  - iii. Short-term storage of items for the intent of warehousing activities and/or for retail sales.
- 3) The owner shall inspect each and every storage unit for cause or at a period no greater than once yearly. The owner shall maintain records of their inspections and make them available to the Code Enforcement Officer upon request.
- 4) Interior parking lanes shall be provided adjacent to the storage units. Such lanes shall be provided parallel to the storage units. Such lanes shall be a minimum of twelve (12) feet in width.
- 5) Interior maneuvering lanes shall be provided around all buildings. For one-way circulations, lanes of twelve (12) feet shall be provided. For two-way circulation, twenty-four (24) feet shall be provided. Drives shall be surfaced with asphalt or oil and chip or some other hard-packed material capable of sustaining the weight of fire equipment. All interior travel lanes shall be posted to prohibit parking.
- 6) All self-storage structures shall be set back a minimum of two-hundred (200) feet from front lot line.
- 7) Landscaping: Plantings shall be provided in all yards facing public rights-of-way to visually screen the storage units from public view. An earthen berm along the public right-of-way along with plantings is recommended to screen self-storage units from public view. The requirements of Section 506 Landscaping shall also apply.
- 8) Security: The entire site shall be designed to minimize the potential for vandalism or criminal activity. Any fencing for security or aesthetic purposes shall be approved by the Planning Board as to material, height and color.
- 9) Site lighting shall be provided and shall be directed or shielded to prevent glare on adjacent properties or roadways and subject to Planning Board approval.
- 10) Hours of operation for self-storage facilities shall be limited to the hours of 6:00 a.m. to 11:00 p.m. daily.
- 11) Signs shall be installed in accordance with applicable provisions of this Ordinance; however, no signs shall be permitted on any portions of the security fencing.
- 12) Rental unit size shall be limited to a maximum of 400 square feet, and no single tenant shall be permitted to rent or lease more than 2,000 square feet.
- 13) Buildings shall be designed and oriented to reduce the visual impact on adjacent properties and existing roadways.
- 14) No building shall have an exterior wall height greater than ten feet nor shall any single self-storage structure be longer than 150 feet in length.
- 15) All storage shall be within the building walls.

# TOWN OF FRANKLIN – ZONING LAW

## ARTICLE VII. SITE PLAN REVIEW

### **Section 701 Purpose**

This Article of the Franklin Zoning Ordinance is enacted under the authority of Section 274-a of the Town Law of the State of New York to protect the health, safety, convenience and general welfare of the inhabitants of the Town. This Article regulates the development of structures and sites in a manner which considers the following concerns and, where necessary, requires modification of development proposals to eliminate or minimize potential problems and nuisances.

The principle areas of concern are:

- A) The balancing of landowners' rights to use their land, with the corresponding rights of abutting and neighboring landowners to live without undue disturbances (e.g., noise, smoke, fumes, dust, odor, glare, stormwater runoff, etc.);
- B) The convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent areas or roads;
- C) The adequacy of waste disposal methods and protection from pollution of surface or groundwater; and
- D) The protection of historic and natural environmental features on the site under review, and in adjacent areas.

### **Section 702 Developments Requiring Site Plan Review**

Those development projects requiring Site Plan Review are listed on Schedule I. Unless specifically exempted from Site Plan Review, no permit for the construction, exterior alteration, relocation, occupancy, or change in use of any building shall be given and no existing use shall be established or expanded in floor area except in conformity with a site plan approved by the Planning Board. The introduction of new materials or processes not previously associated with an existing use is also subject to site plan review.

### **Section 703 Exemptions from Site Plan Review**

Site Plan Review shall not be required for:

- A) The construction or enlargement of any single-family or two-family dwelling, or building accessory to such dwelling;
- B) The construction or alteration of any building used exclusively for agriculture, horticulture, or floriculture;



## **TOWN OF FRANKLIN – ZONING LAW**

- C) Construction or alteration providing for not more than two hundred (200) square feet total floor area after construction;
- D) Home occupations as defined in Article 2, Definitions.
- E) Ordinary repair or maintenance of existing structures or uses.
- F) Temporary structures related to the sale of agricultural products.

### **Section 704 Procedure**

- A) Prior to the submission of a formal site plan, a sketch conference may be held wherein the applicant shall meet in person with the Planning Board to discuss the proposed site plan so that the necessary subsequent steps may be undertaken with a clear understanding of the Town's requirements in matters relating to the development of the site.
- B) Within six (6) months following the presubmission conference, five (5) copies of the site plan and any related information shall be submitted to the Code Enforcement Officer accompanied by a fee in accordance with the schedule of fees of the Town of Franklin, payable to the Town Clerk. An Environmental Assessment Form as required by the State Environmental Quality Review Act shall also be submitted. If the application is not submitted within this six (6) month period, another presubmission conference may be required.
- C) The Code Enforcement Officer shall certify on each site plan or amendment whether or not the application is complete in accordance with Section 706 (Submission Requirements) and whether the plan meets the requirements of all Zoning Ordinance provisions other than those of this Article, such as setbacks, number of parking spaces, etc. The Code Enforcement Officer shall act to certify the application or return it to the applicant for completion or revision within ten (10) days of submission by the applicant.
- D) Following certification of a complete application, the Code Enforcement Officer shall forward the application to the Planning Board no later than ten (10) days prior to their next meeting. The applicant or representative shall appear at Planning Board meetings where the application is reviewed.
- E) The Planning Board may, at its discretion, hold a Public Hearing on the application. Said hearing shall be held within sixty-two (62) days of submission to the Planning Board of said application. The Planning Board shall give notice of the hearing in a newspaper of general circulation in the Town at least ten (10) days prior to the hearing. In addition, the applicant shall give notice in writing by certified mail to all property owners of the land immediately adjacent to, extending five-hundred (500) feet there from, and directly opposite thereto, extending five-hundred (500) feet from the street frontage of the land in said application. The applicant shall mail these notices at least ten (10) days in advance of the hearing and furnish the Planning Board with Post Office receipts as proof of notification.

## **TOWN OF FRANKLIN – ZONING LAW**

- F) The Planning Board shall make a determination of significance of the proposed site plan according to SEQR. The time limitations of paragraph H of this Section shall not apply until the conclusion of the SEQR process.
  
- G) Whenever any Site Plan involves real property in an areas described in Section 239-m of the General Municipal Law, said Site Plan shall be referred to the County Planning Board. If a public hearing is to be held, said action shall be referred to the County Planning Board at least ten (10) days prior to the public hearing. The County Planning Board shall report its recommendations to the Town Planning Board within thirty (30) days. Failure of the County to respond may be construed to be approval. The concurring vote of a majority plus one of the Town Planning Board shall be necessary to override County Planning Board recommendations of approval with modifications or disapproval. In the event that the County Planning Board recommends modifications or disapproval of a referred matter and the Town Planning Board acts to the contrary, the Town Planning Board shall file a report of its final action with the County Planning Board within thirty (30) days after final action and set forth in writing the reasons for the contrary action.
  
- H) The Planning Board shall, within sixty-two (62) days of the public hearing, if one is held, or after the day the application is received if no hearing has been held, either:
  - 1) approve the site plan if the Board finds that the plan meets the requirements of this Ordinance and any other applicable rules and regulations; or
  - 2) condition approval of the site plan upon the applicant making certain changes or modifications to the plan, said conditions to be set forth in writing by the Board; or
  - 3) disapprove the site plan, the reasons for such action to be set forth in writing by the Board. The Planning Board shall inform the applicant in writing of its decision. Failure to act within the required time shall be deemed approval. Should the Planning Board need an additional thirty (30) days to consider the application, then they may do so with consent of the applicant. Said agreement shall be recorded in the minutes.
  
- I) Review of amendments to an approved site plan shall be acted upon in the same manner as the review of the original site plan.

### **Section 705 Enforcement**

- A) The Planning Board may require the posting of a bond or other similar performance guarantee to ensure compliance with the plan and stated conditions of approval. The Code Enforcement Officer may suspend any permit or license when work is not performed as required.

## TOWN OF FRANKLIN – ZONING LAW

- B) Any Special Permit issued under this Article shall lapse within one (1) year if a substantial use thereof has not commenced, except for good cause.
- C) Any person aggrieved by a decision of the authorized board or any officer, department, board or bureau of the Town may apply to the supreme court for review by a proceeding under article seventy-eight (78) of the civil practice law and rules.
- D) The Planning Board may adopt additional detailed design guidelines and performance standards, as it deems necessary, by majority vote of the Planning Board, after conducting a public hearing to receive comments on any proposed revisions. Such hearing shall be advertised once in a newspaper of general local circulation, at least ten (10) days prior to the hearing. Such standards and guidelines shall not become effective until approved by the Town Board.

### **Section 706 Submission Requirements**

- A) The site plan shall include the following data, details, and supporting plans. The number of pages submitted will depend on the proposal's size and complexity. All of the requirements must be met in each plan, except in accordance with paragraph B of this Section.
- B) The Code Enforcement Officer may waive any of the requirements of Section 706, paragraphs C and D, or part thereof, prior to the submission of a formal site plan, when such requirements are not material to the project under review. The Planning Board may overrule any waivers so granted and require compliance with these requirements before accepting a site plan submission.
- C) Site plans shall be prepared by a surveyor, registered professional engineer, architect, or landscape architect at a scale of one (1) inch equals forty (40) feet or less, on standard 24" x 36" sheets, with continuation on 8 1/2" x 11" sheets as necessary for written information.
- D) Items required for submission include:
  - 1) Name of the project, boundaries, and location maps showing site's location in the Town, date, north arrow and scale of the plan.
  - 2) Name and address of the owner of record, developer, and seal of the engineer, architect or landscape architect.
  - 3) Names and addresses of all owners of record of abutting parcels and those within five-hundred (500) feet of the property line.
  - 4) All existing lot lines, easements, and rights-of-way. Include area in acres or square feet, abutting land uses, and the location and use of structures within five-hundred (500) feet of the site.

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- 5) The location and use of all existing and proposed buildings and structures within the development. Include all dimensions of height and floor area, and show all exterior entrances, and all anticipated future additions and alterations.
- 6) The location of all present and proposed public and private ways, parking area, driveways, sidewalks, ramps, curbs, fences, paths, landscaping, and walls. Location, type, and screening details for all waste disposal containers shall also be shown.
- 7) The location, height, intensity, and bulb type (e.g., fluorescent, sodium incandescent) of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
- 8) The location, height, size, materials, and design of all proposed signage.
- 9) The location of all present and proposed utility systems including:
  - a) sewage or septic system;
  - b) water supply system;
  - c) telephone, cable and electrical systems; and
  - d) storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes, and drainage swales.

The Planning Board may also request soil logs, soil profile analysis (deep test pits), percolation tests and storm water run-off calculations for large developments or developments in environmentally-sensitive areas.

- 10) Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive run-off, excessive raising or lowering of the water table, and flooding of other properties, as applicable.
- 11) Existing and proposed topography at a five (5) foot contour interval. All elevations shall refer to the nearest United States Coastal and Geodetic Bench Mark. If any portion of the parcel is within the 100-year flood plain, the area will be shown, and base flood elevations given. Indicate areas within the proposed site and within fifty (50) feet of the proposed site, where ground removal or filling is required, and give its approximate volume in cubic yards.
- 12) A landscape plan showing all existing natural land features, trees, forest cover and water sources, and all proposed changes to these features including size and type of plant material, and erosion control measures. Water sources will include ponds, lakes, brooks, streams, wetlands, floodplains, and drainage retention areas [see Section 506].
- 13) Zoning district boundaries within one hundred (100) feet of the site's perimeter shall be drawn and identified on the plan.

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- 14) Traffic flow patterns within the site, entrances and exits, loading and unloading area, curb cuts on the site and within one hundred (100) feet of the site. The Planning Board may require a detailed traffic study for large developments or for those in heavy traffic areas to include:
    - a) the projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic level;
    - b) the projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site;
    - c) the impact of this traffic upon existing abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels as well as road capacity levels shall also be given.
  - 15) For new construction or alterations to any existing building, a table containing the following information must be included:
    - a) area of building to be used for a particular use such as retail operation, office, storage, etc.;
    - b) maximum number of employees;
    - c) maximum seating capacity, where applicable; and
    - d) number of parking spaces existing and required for the intended use.
  - 16) Elevation plans at a scale of 1/4" = 1' for all exterior facades of the proposed structure(s) and/or existing facades, plus addition(s) showing design features and indicating the type and color of materials to be used.
- E) An Environmental Assessment Form (either a short or long form, depending upon the nature of the proposal) shall be submitted with the site plan to insure compliance with the New York State Environmental Quality Review Act (6 NYCCR 617), to identify the potential environmental, social, and economic impacts of the project.

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### **Section 707 Standards for Review**

The Planning Board shall review the site plan and supporting documents, taking into consideration the reasonable fulfillment of the objectives listed below. Pursuant to Section 705, paragraph C, detailed design guidelines and performance standards may be adopted by the Planning Board to guide decisions with respect to these objectives, and to help ensure consistency in the review of all applications.

A) Legal

Conformance with the provisions of the Local Laws and Ordinances of the Town, the Town Law of New York, and all applicable rules and regulations of state and federal agencies.

B) Traffic

Convenience and safety of both vehicular and pedestrian movement within the site and in relationship to adjoining ways and properties.

C) Parking

Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment, adequate parking, adequate lighting, and internal traffic control.

D) Public Services

Reasonable demands placed on public services and infrastructure.

E) Pollution Control.

Adequacy of methods for sewage and refuse disposal, and the protection from pollution of both surface waters and groundwater. This includes minimizing soil erosion both during and after construction.

F) Nuisances

Protection of abutting properties and Town amenities from any undue disturbance caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, odors, glare, stormwater runoff, etc.

G) Existing Vegetation

Minimizing the area over which existing vegetation is to be removed. Where tree removal is required, special attention shall be given to planting of replacement trees.

## TOWN OF FRANKLIN – ZONING LAW

### H) Amenities

The applicant's efforts to integrate the proposed development into the existing landscape through design features such as vegetative buffers, roadside plantings, and the retention of open space and agricultural land.

### I) Town Character

The building setbacks, area and location of parking, architectural compatibility, signage, and landscaping of the development, and how these features harmonize with the surrounding landscape and the natural landscape.

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### ARTICLE VIII. NONCONFORMING USES, STRUCTURES AND LOTS

#### **801 Intent**

It is the intent of this Article to permit nonconforming lots, structures, and uses to continue until they are removed , but not to encourage their continuance. Therefore, lots, structures and uses of land and/or structures which lawfully existed at the time of enactment of these regulations and which would be prohibited or restricted under the terms of this Ordinance may continue subject to the following provisions.

#### **802 Nonconformance**

A) Nonconforming Lot

Any lot which legally existed at the time this Ordinance was enacted and which is deficient in depth, width, frontage, area or other dimensional requirement when compared to the present requirements of the zoning district (See Sections 803 and 804).

B) Nonconforming Structure

Any structure, building or sign which legally existed at the time of enactment of this Ordinance and which is used for a permitted use, but does not conform to the present requirements of zoning district for size, dimensions or setbacks (See Sections 803 and 805).

C) Nonconforming Use

Any use of land, premises, building or structure, legally existing at the time of enactment of this Ordinance, which is not a permitted use, permitted accessory use or special use as specified in the regulations applicable to the zoning district in which such use is located (see Sections 803 and 806).

#### **803 General Provisions**

A) Construction Approved Prior to Enactment of Ordinance

Nothing contained in this Ordinance shall require any change in plans, construction or designation of use of a building for which a building permit has been heretofore issued and the construction of which shall have been diligently prosecuted within three (3) months of the date of such permit.

B) Transference

Rights granted to nonconforming lots, structures and uses pursuant to this Article shall remain with the land when title is transferred.



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C) No unlawful use of property existing at the time of enactment of this Ordinance shall be deemed a nonconforming use; no unlawful structure existing at the time of enactment of this Ordinance shall be deemed a nonconforming structure; no unlawful lot existing at the time of enactment of this Ordinance shall be deemed a nonconforming lot.

D) District Changes, Ordinance Amendments

Whenever the boundaries of a zoning district are changed so as to transfer an area from one district to another district of a different classification, or whenever the text of this Ordinance is changed the provisions of this Article shall also apply to any use, structure or lot made nonconforming by district change or ordinance amendment.

### **804 Nonconforming Lots**

A) On any lot nonconforming because of insufficient width, side yard requirements shall be reduced in accordance with the following standards:

Width of lot at front yard setback line (feet)	Minimum side yard width (feet)
Less than 55	5
55 but less than 65	8
65 but less than 75	10
75 but less than 85	12
85 but less than 100	15
More than 100	20

B) Front Setback

On any lot nonconforming because of insufficient depth or area (acreage) front setback requirements shall not apply for additions to existing buildings located on such lots; provided such additions shall not exceed the present front line of the main structure if such main structure is located closer to the front property line than would be permitted by this Ordinance.

C) Subdivision

A nonconforming lot may be subdivided if every part of such lot is purchased by the owners of adjoining properties to increase the dimensions of such adjoining properties. Otherwise, the dimensions of a nonconforming lot may not be reduced.

## TOWN OF FRANKLIN – ZONING LAW

### **805 Nonconforming Structures**

- A) Nonconforming structures may be enlarged or altered provided such construction will not result in the increase of any nonconformity in height, setback, land coverage or other dimensional requirement. Such alterations or additions shall not extend into any front or side yard beyond the existing nonconforming structure.
- B) Nothing in this Article shall prevent normal maintenance and repair of any nonconforming building or structure.
- C) No nonconforming structure shall be moved to another location where such building or structure would also be nonconforming.
- D) Any nonconforming structure may be restored or reconstructed after being destroyed or damaged by fire, accident or other act of God provided that the restoration or reconstruction is started within twelve (12) months and completed within eighteen (18) months after such damage is incurred.

### **806 Nonconforming Uses**

- A) Nonconforming Use of Land

Where no building is involved, the nonconforming use of land may be continued, provided however:

- 1) that no such nonconforming use shall be enlarged or increased, nor shall it be extended to occupy a greater area of land than that lawfully occupied by such use at the time of the enactment of this Ordinance.
- 2) that no such nonconforming use be moved in whole or in part to any other portion of the lot or parcel of land lawfully occupied by such nonconforming use at the time of enactment of this Ordinance;
- 3) that if such nonconforming use of land, or any portion thereof ceases for any reason for any continuous period of more than one year, or is changed to a conforming use, any future use of the land shall be in conformity with the provisions of this Ordinance;
- 4) that no nonconforming use of land shall be changed to another nonconforming use.

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### B) Nonconforming Use of Structures

No building or structure used for a nonconforming use shall be enlarged, extended or moved nor additional structures allowed.

### C) Once changed to a conforming use, the use of any structure shall not be permitted to revert to a nonconforming use.

### D) Maintenance and repair work as is required to keep a structure housing a nonconforming use in sound condition shall be permitted.

### E) Any nonconforming use may be extended throughout any parts of the building which were manifestly arranged or designed for such use at the time of enactment of this Ordinance.

### F) Discontinuance

Whenever a nonconforming use of a structure has been discontinued for a period of one year, such use shall not thereafter be re-established, and any future use shall be conforming with the provisions of this Ordinance. Discontinuance necessary pending action by a probate court shall not be counted as part of the one year period.

### G) If a building or structure or part thereof containing a nonconforming use has been damaged or partially destroyed by any cause, it may not be reconstructed or restored unless reconstruction or restoration plans are submitted to the Zoning Board of Appeals for approval within twelve (12) months of said destruction or damage. Such nonconforming use shall be reconstructed or restored with the same or less floor area and cubic content, and with the same or improved site layout as that of the original structure. This paragraph shall only apply if the damage exceeds thirty-three (33) percent of the value of the structure at the time of damage.

## **807 Mobile Homes**

Existing mobile homes, that, for whatever reason, are to be replaced on the same lot and/or on the same site, shall only be replaced with a mobile home meeting the requirements of this Ordinance and the construction standards of the New York State Uniform Fire and Building Code.

## TOWN OF FRANKLIN – ZONING LAW

### ARTICLE IX. ADMINISTRATION

#### **Section 901 Enforcement**

The duty of administering and enforcing the provisions of this Ordinance is hereby conferred upon the Code Enforcement Officer. He shall be appointed by the Town Board and receive compensation as the Town Board shall determine.

#### **Section 902 Duties and Procedures of the Code Enforcement Officer**

A) Administer the Zoning Ordinance

The Code Enforcement Officer shall review all applications for building permits; and, if the minimum requirements of this Ordinance are met, he shall issue a permit. If the applicant's plans do not meet the Zoning requirements, he must deny the permit. The Code Enforcement Officer may not use discretionary judgement. He must enforce the "Letter of the Law".

B) Referral to the Zoning Board of Appeals

An applicant, after he has been denied a building permit, may appeal the Code Enforcement Officer's findings to the Zoning Board of Appeals (ZBA) for an interpretation or a variance. Should an appeal be requested, the Code Enforcement Officer shall notify the Secretary of the ZBA of the request and forward all necessary supporting information.

C) Referral to Town Planning Board

Any application for a special permit, change of zoning district or use that requires a Site Plan Review shall be forwarded by the Code Enforcement Officer to the Secretary of the Town Planning Board along with all supporting information.

D) Cite Zoning Violations

For any plans, constructions, building, use of premise found in violation of this Ordinance, the Code Enforcement Officer shall order the responsible party, in writing, to remedy the conditions. He shall have the authority to secure from the court of competent jurisdiction a stop order to constrain the continuance of violation.

E) Report to Town Board

A monthly report to the Town Board describing and enumerating actions taken and permits issued shall be given.

F) Public Record

The Code Enforcement Officer shall file all permit actions with the Town Clerk.

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### **Section 903 Permits Required**

No use or structure shall be established, erected nor land developed until a permit has been issued by the Code Enforcement Officer who shall issue such permits in accordance with requirements of this Ordinance.

A) Preapplication Conference with Planning Board

Preapplication conference with the Town's Planning Board are encouraged for all applicants seeking permits for nonresidential uses or nonfarm uses.

B) Application

All applications for permits shall be in writing, signed by the owner, on forms furnished by the Code Enforcement Officer and shall be filed with the Officer and briefly state:

- 1) Nature and definite purpose of the building or use sought.
- 2) Description of the property and buildings to be placed thereon.
- 3) Statement of any restrictions by deed or other instrument of record.
- 4) An agreement to comply with this Ordinance and all other laws, ordinances and regulations that may be applicable.
- 5) Such other information as the Town Board, the Board of Appeals or Code Enforcement Officer may require.
- 6) Evidence that application for a Sewage Disposal Permit from the New York City Department of Environmental Protection, Bureau of Water Supply, has been made, where applicable.

C) Action

The Code Enforcement Officer shall act upon all applications for Building Permits within twenty (20) working days from the day of application. Such official shall issue or refuse to issue such permits.

D) Refusal

Where the proposed construction, alteration or use of the building or lot is in violation of any of the provisions of this Ordinance or when a Special Permit or Site Plan Approval is needed, the Permit shall not be issued. Such refusal shall be in writing, a copy of which shall be sent to the applicant to submit an appeal to the Zoning Board of Appeals, or the Town Board or Planning Board, as specified elsewhere in this Ordinance, for relief from the Code Enforcement Officer's decision.

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### E) Term

A permit shall become void 12 months from the date of issuance unless substantial progress has been made since that date on the project described therein; provided, however, that the permit shall be renewed by the Code Enforcement Officer for an additional twelve (12) months upon application. Additional extensions shall be subject to approval by the Zoning Board of Appeals.

### F) Exceptions

#### 1) Farm Structures

The provisions of this Article IX shall not apply to any farm building or use as defined in Article II of this Ordinance.

#### 2) Maintenance and Repair

No building permit shall be required for normal maintenance and repair work, for painting, interior decoration, landscaping and the construction of a structure, such as a utility shed or animal shelter, where the total floor area is one hundred (100) square feet or less.

### G) Environmental Assessment

Until authorized by the appropriate lead agency, no building permit shall be issued for any proposed building or land use which, in the judgement of the Code Enforcement Officer, would require an environmental assessment in accordance with the State Environmental Quality Review Act of 1975 and any County or Town rules and regulations enacted pursuant thereto. Such application shall be referred to the appropriate lead agency for a determination as to whether an environmental impact assessment will be required.

## **Section 904 Certificate of Compliance**

### A) Applicability

1) No land shall be occupied or used, and no building hereafter erected, altered or extended shall be used or changed in use until a Certificate of Compliance shall have been issued by the Code Enforcement Officer stating that the building or proposed use thereof complies with the provisions of this Ordinance.

2) All Certificates of Compliance shall be applied for coincident with the application for a Building Permit. Said Certificate shall be issued within ten (10) days after the erection or alteration shall have been approved as complying with the provisions of this Ordinance.

## TOWN OF FRANKLIN – ZONING LAW

- 3) The Code Enforcement Officer shall maintain a record of all certificates and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building affected.
- 4) No permit for excavation of, or the erection or alteration of, or repair to any building shall be issued until an application has been made for a Certificate of Compliance.
- 5) The Code Enforcement Officer shall not issue a Certificate of Occupancy unless and until they have issued the Certificate of Compliance.

### B) Refusal

If the Code Enforcement Officer, after such final inspection, refuses to issue a Certificate of Occupancy, he shall state such refusal in writing with the cause, and immediately thereupon mail notice of such refusal to the applicant at the address indicated on the application.

### C) Temporary Certificate of Occupancy

If use or occupancy of land, a building, or part thereof, is desired prior to completion of all details proposed in the application for which a Zoning Permit was issued, the Zoning Board of Appeals, upon request, may authorize the Code Enforcement Officer to issue a Temporary Certificate of Occupancy. A letter of credit, or equal security, of sufficient amount to complete all unfinished improvements, may be required by the Board of Appeals before a Temporary Certificate is authorized.

## TOWN OF FRANKLIN – ZONING LAW

### Section 905 Board of Appeals

#### A) Creation, Appointment and Organization

A Board of Appeals shall consist of five members appointed in accordance with Section 267 of the Town Law. The Town Board shall designate a chairman, and from its membership the Board of Appeals shall appoint a secretary and shall prescribe rules for the conduct of its affairs. No person who is a member of the Town Board shall be eligible for membership on such Board of Appeals.

#### B) Powers and Duties

The Board of Appeals shall have all the powers and duties pursuant to Section 267-b of NYS Town Law and by this Ordinance, which are more particularly specified as follows:

##### 1) Orders, requirements, decisions, interpretations, determinations.

Orders, requirements, decisions, interpretations, determinations. The board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of such ordinance or local law and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.

##### 2) Appeals for Variances

Upon denial of a building permit by the Code Enforcement Officer, the Zoning Board of Appeals shall hear requests for variances.

##### 3) Use variances.

a) The board of appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or local law, shall have the power to grant use variances, as defined herein.

b) No such use variance shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located,

- i. the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- ii. that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;



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- iii. that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- iv. that the alleged hardship has not been self-created.

c) The board of appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

### 4) Area variances.

a) The zoning board of appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances as defined herein.

b) In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:

- i. whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
- ii. whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
- iii. whether the requested area variance is substantial;
- iv. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- v. whether the alleged difficulty was self- created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

c) The board of appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

### 5) Imposition of conditions.

The board of appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

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- 6) Application to Supreme Court by aggrieved persons. Any person or persons, jointly or severally aggrieved by any decision of the board of appeals or any officer, department, board or bureau of the town, may apply to the supreme court for review by a proceeding under article seventy-eight (78) of the civil practice law and rules. Such proceeding shall be instituted within thirty days after the filing of a decision of the board in the office of the town clerk.
- C) Procedure
- 1) All applications for variances shall be in writing on forms established by the Zoning Board of Appeals. They are available from the Code Enforcement Officer.
  - 2) Every application shall refer to the specific provision of the ordinance involved and establish the details of why the variance should be granted. An Environmental Assessment form, as required by SEQQR, must be submitted with all applications except setback variances and interpretations.
  - 3) Upon receipt of the completed application, the Zoning Board of Appeals shall:
    - a) Schedule a public hearing within sixty-two (62) days.
    - b) Arrange publication of notice of public hearing in the Town's official newspaper at least ten (10) days prior to the public hearing.
    - c) Authorize applicant to notify in writing all land owners within 500 feet of the applicant's parcel by Return Receipt Mail; the applicant shall furnish receipts to the Zoning Board of Appeals at the start of the public hearing.
    - d) All use variances submitted to the Board of Appeals shall be referred to the Planning Board for review as to the conformance with the objectives of the Comprehensive Plan. No decision shall be made by the Board of Appeals until such Planning Board review has been completed and a report issued. If the Planning Board fails to issue its report within 30 days, the Board of Appeals shall assume that a favorable report has been issued.
    - e) Refer application to the County Planning Board as required by General Municipal Law, Section 239 m, to allow the County thirty (30) days to review the proposed action and to file its report.
    - f) Review the Environmental Assessment Form and determine whether an environmental impact statement should be required.

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4) Within sixty-two (62) days of the public hearing, the Zoning Board of Appeals shall render a decision. In the event that the County Planning Board recommends modifications or disapproval of a referred matter and the Zoning Board of Appeals acts to the contrary, the Town Planning Board shall file a report of its final action with the County Planning Board within thirty (30) days after final action and set forth in writing the reasons for the contrary action.

### **Section 906 Planning Board**

A) General

In all cases where this Ordinance requires authorization and approval of plans by the Planning Board, no building permit shall be issued by the Code Enforcement Officer except upon authorization of and in conformity with the plans approved by the Planning Board.

B) Site Plan

The Town hereby authorizes the Planning Board to review and approve, to approve with modification, or to disapprove site plans.

C) Special Permits

The Planning Board is further authorized to issue special permits upon determination that the public health, safety and welfare shall be served and neighboring properties will not be injured.

### **Section 907 County Planning Board**

The Zoning Enabling Laws require that any of the following local zoning actions be referred to the County Planning Board prior to action by the local board. Any proposal for a special permit, variance, site plan approval, change in the zoning ordinance text or map (rezoning, amending and zoning ordinance) which would affect the real property lying within a distance of 500 feet from the boundary of:

- A) Any county;
- B) Any town;
- C) Any village;
- D) Any existing or proposed county or State park;
- E) Any right-of-way of any county or State road or parkway;
- F) Any existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines;
- G) Any existing or proposed county or State owned land on which a public building or institution is situated must be referred to the County Planning Board who shall have thirty (30) days from date of County receipt to take action on the matter;
- H) The boundary of a farm operation located in an agricultural district, as defined by article twenty-five-AA of the agriculture and markets law, except this subparagraph shall not apply to the granting of area variances.

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### **908 Violations**

Any one or combination of the following three procedures (A, B, and C, below) may be used in response to violations of this Ordinance:

#### A) Complaint of Violations

The following procedure shall be followed in response to a complaint:

##### 1) Filing of Complaint

A complaint of violation of this Ordinance may be made by any resident, landowner or town official including the Zoning Officer. All such complaints must be in writing, signed, and shall be filed with the Zoning Officer who shall properly record such complaint and immediately investigate to determine the presence of a violation.

##### 2) Notice of Violation

Whenever, in the opinion of the Zoning Officer, after examination and inspection, there appears to exist a violation of any provision of this Ordinance, or of any rule or regulation adopted pursuant thereto, the officer shall serve a written notice of violation, either personally or by registered mail to the owner or occupant of the subject property. Such notice shall inform the recipient of:

a) The nature and details of such violation including a reference to the provision of this Ordinance allegedly being violated, and

b) Recommended remedial action which, if taken, will effect compliance with the provisions of this Ordinance and rules and regulations adopted pursuant thereto, and

c) The date by which the violation must be remedied or removed, which shall be no less than ten (10) days from the date the notice is issued.

##### 3) Noncompliance

In case of noncompliance with the notice of violation within the allotted time, the Zoning Officer shall seek the penalties permitted in this Ordinance through the Town of Franklin Justice Court.

#### B) Stop Work Order

The Zoning Officer may use the following stop work order procedure to prevent a violation of this Ordinance.

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- 1) Whenever the Zoning Officer has reasonable grounds to believe that work on any building or structure is being done in violation of this Ordinance, or not in conformity with a zoning permit, the officer shall notify the property owner, the owner's agent or the person performing the work, to suspend all work. Any persons shall forthwith stop such work and suspend all construction activities until the stop work order has been rescinded.
- 2) Stop work order shall be made in writing, stating the nature of the violation, citing the sections of this Ordinance allegedly being violated and stating the conditions under which the work may be resumed.
- 3) The order may be served upon a person to whom it is directed either by delivering personally to such person or by posting the order upon a conspicuous portion of the construction site and sending a copy of the order by registered mail.

### C) Court Order

The Town may obtain a court order to prevent violation of this Ordinance.

- 1) In addition to other remedies, any action or proceeding may be instituted in a court of competent jurisdiction to prevent construction, conversion, alteration, use maintenance, or occupancy of property in violation of or compel compliance with this Ordinance.
- 2) Such action may be commenced by the Zoning Officer, the Town Attorney, or by resolution, the Town Board. Nothing in this Section shall be deemed to preclude the right of resident taxpayers to institute such proceedings in accordance with the Town Law, Section 268.

## **909 Penalties**

### A) Penalty for Offense

A violation of this Ordinance is hereby declared an offense punishable by a fine not exceeding \$350. Each weeks' continued violation shall constitute a separate additional violation.

### B) Jurisdiction

For the purposes of conferring jurisdiction upon court and judicial officers generally, violation of this Ordinance shall be misdemeanors, and for such purposes only, all provisions of law relating to misdemeanors shall apply to such violations.

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### C) Justice Court

The Justice Court of the Town of Franklin shall have original and trial jurisdiction over the summons and informations filed charging a violation of this Ordinance. Trials shall be before the court without jury.

### D) Limits of Powers - Nothing in this Ordinance shall be deemed to empower the Justice Court of the Town of Franklin to compel compliance with or restrain by injunction the violation of this Ordinance.

### E) Civil Penalties - Any person violating this Ordinance shall be subject to a civil penalty enforceable and collectable by the Town in the amount of \$350 for each offense. Such penalty shall be collected by and in the name of the Town for each week that such violation shall continue. The civil penalty is in addition to the criminal penalties for an offense.

## **Section 910 Amendments**

### A) Official notice must be given and a public hearing held by the Town Board as required by law prior to approval of amendments or other such modifications.

### B) Each petition requesting a change of zoning regulations or district boundaries shall be typewritten, signed by the owner, filed in triplicate, and accompanied by the required fee and a completed Environmental Assessment Form as required by the State Environmental Quality Review Act.

### C) Every such proposed amendment shall be referred to the County Planning Board, when applicable (See Section 907).

### D) Every such proposed amendment shall be referred to the Franklin Town Planning Board for a report and recommendation prior to the public hearing. The Planning Board shall have 90 days to review the proposed amendment and may hold a public hearing after giving notice in the manner required of the Town Board. The Town Board may not hold a public hearing until the Planning Board has reported or until the 90 days has lapsed.

### E) In case, however, of a protest against such change, signed by the owners' of 20 per cent or more of the area of land included in such proposed change, or of that immediately adjacent extending 100 feet therefrom, or of that directly opposite thereto and extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least four members of the Town Board as set forth by Section 265 of the Town Law of the State of New York.

## TOWN OF FRANKLIN – ZONING LAW

- F) Before adopting any proposed amendment to this Ordinance, the Town Board shall assess the environmental impact of such amendment in accordance with the State Environmental Quality Review Act and may determine that an environmental impact statement on such amendment shall be prepared.
  
- G) In approving subdivision plats which involve modifications of the zoning regulations, the Planning Board may make such zoning changes only after these have been disclosed at the public hearing required by the subdivision Ordinance for the town. Changes made pursuant to this Section are at the discretion of the Planning Board and must be made in accordance with the provisions of Section 281 of Article 16 of Town Law of the State of New York and Section 107 B) of the Town of Franklin Subdivision Regulations.

**TOWN OF FRANKLIN – ZONING LAW**

**Town of Franklin  
Schedule I - Table of Use Regulations**

Permitted and Special Permit Uses <i>P - Permitted Use</i> <i>SP - Special Permit Use</i>		Rural I	Rural III	Rural V	Hamlet	PWS	Develop. Limitation Overlay	Site Plan Required	Accessory Uses R-I, R-III, R-V, & H Districts
<b>1 Residential Uses</b>									Private garage Swimming pool Home occupation Barn Storage shed Tool shed Greenhouse Garden house Roadside stand Signs [Section 535] Solar equipment Exterior spotlight Private stable Hobby farm Recreational vehicles Farm labor dwelling, but not more than two  Other accessory uses customarily incidental to the principal use
	One and Two Family Dwellings	P	P	P	P	SP	SP		
	Multi-Family Dwellings	SP	SP	SP	SP	SP	X	*	
	Mobile Home	P	P	P	P	SP	SP		
	Mobile Home Park	SP	SP	X	SP	SP	x	*	
<b>2 Agricultural, Natural Resources</b>									
	Agricultural Practices	P	P	P	SP	P	SP		
	Non-commercial livestock	P	P	P	P	P	SP		
	Forestry Management	P	P	P	P	P	SP		
	Wildlife Management	P	P	P	P	P	SP		
<b>3 Institutional Uses</b>									
	Airport	SP	SP	SP	X	X	X	*	
	Cemetery	SP	SP	SP	SP	X	X	*	
	Educational Institution	SP	SP	SP	SP	X	X	*	
	Government Building	SP	SP	X	SP	X	X	*	
	Nursing Home	SP	SP	X	SP	X	X	*	
	Medical Health Center	SP	SP	X	SP	X	X	*	
	Places of Worship	SP	SP	X	SP	X	X	*	
	<i>Prison</i>	SP	SP	X	X	X	X	*	
	Public Utilities	SP	SP	SP	SP	X	X	*	
<b>4 Commercial Uses</b>									
	Animal Hospital	SP	SP	SP	X	X	X	*	
	Artist Gallery or Artist Studio	SP	SP	X	SP	X	X	*	
	Banks	SP	SP	X	SP	X	X	*	
	Bed-and-breakfast	SP	SP	SP	SP	X	X	*	
	Blacksmith Shop	SP	SP	SP	SP	X	X	*	
	Building Supply/Feed Store	SP	SP	SP	x	X	X	*	
	Business and Professional Office	SP	SP	X	SP	X	X	*	
	Clubs, Social Center	SP	SP	X	SP	X	X	*	
	Commercial Recreation	SP	SP	SP	SP	X	X	*	
	Day Care Center	SP	SP	SP	SP	X	X	*	
	Eating and Drinking Establishments	SP	SP	SP	SP	X	X	*	
	Farm/contractors equipment sales	SP	SP	X	SP	X	X	*	
	Funeral Home	SP	SP	X	SP	X	X	*	
	Gun/Hunt/Fish Club	SP	SP	SP	SP	X	X	*	
	Home Professional Office	SP	SP	SP	SP	X	X		
	Hotel/Motel/Resort	SP	SP	SP	SP	X	X	*	
	Kennel	SP	SP	SP	X	X	X	*	
	Motor Vehicle Rental/Sale/Service	SP	SP	X	SP	X	X	*	
	Personal service shops	SP	SP	SP	SP	X	X	*	
	Retail Store < 10,000 sq. ft.	SP	SP	X	SP	X	X	*	
	Restaurant	SP	SP	X	SP	X	X	*	
	Shopping Center < 10,000 sq. ft.	SP	X	X	X	X	X	*	
	Theater – Movie or Performing Arts	SP	X	X	SP	X	X	*	
	Veterinary clinic	SP	SP	SP	SP	X	X	*	



**TOWN OF FRANKLIN – ZONING LAW**

**Town of Franklin  
Schedule I - Table of Use Regulations**

Zoning District	Rural I	Rural III	Rural V	Hamlet	PWS	Develop. Limitation Overlay	Site Plan	Accessory Uses R-I, R-III, R-V, & H Districts
<b>5 Industrial Uses</b>								
Alternative Energy Generation - Residential	SP	SP	SP	SP	X	X	*	Private garage Swimming pool Home occupation Barn Storage shed Tool shed Greenhouse Garden house Roadside stand Signs [Section 535] Solar equipment Exterior spotlight Private stable Hobby farm Recreational vehicles Farm labor dwelling, but not more than two  Other accessory uses customarily incidental to the principal use
Alternative Energy Generation - Commercial	SP	SP	SP	X	X	X	*	
Contractor/Building Trades or Excavating	SP	SP	SP	SP	X	X	*	
Feed Storage	SP	SP	X	SP	X	X	*	
Fuel Storage	SP	SP	X	SP	X	X	*	
Gas & Fuel Distributor	SP	X	X	X	X	X	*	
Landscaper	SP	SP	SP	SP	X	X	*	
Light Industrial Use	SP	SP	X	SP	X	X	*	
Manufacturing	SP	SP	X	X	X	X	*	
Mineral Extraction	SP	SP	SP	X	X	X	*	
Recycling Depository	SP	SP	X	SP	X	X	*	
Research and Testing Laboratory	SP	SP	X	SP	X	X	*	
Sawmill, Lumbering	SP	SP	SP	X	X	X	*	
Storage and Warehousing	SP	SP	X	SP	X	X	*	
Welder	SP	SP	SP	SP	X	X	*	
Wholesaling	SP	X	X	X	X	X	*	
<b>6 Recreation</b>								
Campgrounds	SP	SP	SP	X	X	X		
Golf course	SP	SP	SP	X	X	X		
Public parks & playgrounds	SP	SP	SP	SP	SP	X		
<b>Zoning District</b>	<b>Rural I</b>	<b>Rural III</b>	<b>Rural V</b>	<b>Hamlet</b>	<b>PWS</b>	<b>Develop. Limitation Overlay</b>		

**NOTE: All uses not specifically listed on this table are prohibited.**

**\* Site Plan Review Required.**

R-I Residence  
R-III Residence  
R-V Residence  
Hamlet

PWS  
AG-1 Agricultural

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