

## **TOWN OF FRANCESTOWN NEW HAMPSHIRE**

- ZONING ORDINANCE
- INSPECTOR OF BUILDINGS AND APPROVAL OF BUILDING PLANS
  - FLOOD HAZARD BUILDING CODE

March 2014

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|---------------------------------|----------------------------------|----------------------------------|
| <sup>1</sup> Adopted March 1985 | <sup>9</sup> Adopted March 1997  | Amended March 2000               |
| <sup>2</sup> Amended March 2014 | Amended March 2005               | Amended March 2001,              |
| <sup>3</sup> Amended March 1990 | <sup>10</sup> Adopted March 2000 | Amended March 2005               |
| <sup>4</sup> Adopted March 1990 | <sup>11</sup> Adopted March 2001 | Amended March 2008               |
| Amended March 1997              | <sup>12</sup> Adopted March 2001 | Amended March 2014               |
| Amended March 2005              | <sup>13</sup> Adopted March 2001 | <sup>20</sup> Amended March 1988 |
| Amended March 2008              | Amended March 2008               | <sup>21</sup> Amended March 1990 |
| Amended March 2008              | <sup>14</sup> Adopted March 1993 | Amended March 1994               |
| Amended Aug. 3, 2009            | Amended March 2005               | Amended March 1997               |
| Amended March 2014              | Amended March 2008               | Amended March 1999               |
| <sup>5</sup> Amended March 1992 | Amended March 2011               | <sup>22</sup> Amended March 1999 |
| Amended March 2000              | <sup>15</sup> Amended March 1999 | Amended March 2005               |
| Amended March 2005              | <sup>16</sup> Adopted March 1997 | <sup>23</sup> Amended March 1999 |
| Amended March 2014              | <sup>17</sup> Adopted March 1999 | Amended March 2006               |
| <sup>6</sup> Amended March 1999 | <sup>18</sup> Adopted March 1999 | <sup>24</sup> Amended March 2014 |
| <sup>7</sup> Adopted March 1999 | <sup>19</sup> Amended March 1997 | <sup>25</sup> Adopted March 2014 |
| <sup>8</sup> Adopted March 1994 | Amended March 1998               |                                  |
| Amended March 1997              | Amended March 1999               |                                  |

# **FRANCESTOWN ZONING ORDINANCE**

## **ARTICLE I PREAMBLE**

The purpose of this zoning ordinance is to promote the health, safety, morals and general welfare of the population of the Town of Frankestown, and in particular to retain its present character of simple rural beauty, to maintain an environment amenable to agricultural and farming activities, to foster development compatible with the carrying capacity of the land and without unreasonable expenditure of public funds for the provision of municipal services, to encourage a high quality of life for all its residents, to conserve the value of buildings and property, and to encourage the most appropriate use of land throughout the town.

## **ARTICLE II DISTRICTS**

**2.1 The Town shall be divided** into the following districts

Village District  
Rural District  
Conservation (overlay) District

**2.2 The Village zoning district** shall be from the junction of New Hampshire Route 47 and Pleasant Pond Road southeasterly along Route 47 to the Town Scales; northeasterly on Poor Farm Road to a point 1300 feet from the Town Scales; southeasterly from the Town Scales along Route 136 to the bridge over the Piscataquog River; southerly from the Town Scales along the Second New Hampshire Turnpike to the junction of Potash Road; southerly along New Hampshire Route 136 from the Town Scales to the junction of Old County Road; and Oak Hill Road from the junction with Route 47 to the junction with Perley Road.

The Village district shall extend for a perpendicular distance of 750 feet on each side of the centerline of each road.

**2.3 The Rural zoning district** shall include all remaining land within the town.

**2.4 Boundaries** of zoning districts are shown on the map entitled "Frankestown Zoning Map" which is attached to and made a part of this ordinance and is hereafter referred to as the "zoning map." The zoning map of the Town of Frankestown is drawn to a scale of one thousand (1000) feet to the inch, and shall be certified as the zoning map of the Town of Frankestown by the Town Clerk upon adoption of this ordinance, or upon any amendment that affects the zoning map and, upon such certification, shall be filed with the Planning Board.

### **2.5 Boundary Determinations.**

In any instance where there is doubt as to the location of a zoning district boundary, the burden of proof shall be on the applicant to show the proper location of the

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boundary. The Planning Board shall determine the location of such boundary, consistent with the intent of this ordinance and the zoning map.

In case of dispute regarding the boundary of the conservation zone, the applicant shall bear the burden of showing where the line should be drawn. The Planning Board, before making a final determination, shall consult with the Conservation Commission and shall consider its recommendations in written findings.

## **ARTICLE II-A CONSERVATION OVERLAY DISTRICTS**

### **2-A.1 ESTABLISHMENT OF OVERLAY DISTRICTS**

The following Conservation overlay districts are hereby established:

- Wetlands and Vernal Pool Conservation District
- Steep Slope District
- Flood Plain District
- Aquifer Protection District
- Shoreland District

In the areas of Francestown which are included in an overlay district, the regulations of the overlay district shall apply in addition to the regulations of the applicable use district. Where regulations in a use district and an overlay district conflict, the regulation of the most restrictive district shall apply. Where regulations of the overlay districts conflict, the most restrictive regulation shall apply.

### **2-A.2 WETLANDS AND VERNAL POOL CONSERVATION DISTRICT**

#### **2-A.2.1 Purposes.**

The purpose of the Wetlands and Vernal Pool Conservation District is to regulate the use of land areas which have been found to be subjected to high water tables for extended periods of time. It is designed to (1) prevent the development of structures and land uses on naturally occurring wetlands which will contribute to pollution of surface and ground water by sewage and toxic substances; (2) prevent the destruction of, or significant changes to, natural wetlands which provide flood protection; (3) protect unique and unusual natural areas; (4) protect wildlife habitats and maintain ecological balance; (5) protect potential water supplies and existing aquifers (water-bearing stratum) and aquifer recharge areas; and (6) prevent expenditure of municipal funds for the purposes of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of wetlands.

#### **2-A.2.2 Description of Wetlands and Vernal Pool Conservation District.**

The Wetlands and Vernal Pool Conservation District includes all areas in Francestown that are:

- (a) inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions – including, but not limited to bogs, swamps, and marshes - as determined by a Wetlands Scientist licensed by the State of New Hampshire.

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- (b) any temporary body of water, commonly known as a vernal pool, which supports obligate species including, but not limited to fairy shrimp, mole salamanders, and wood frogs as determined by a Wetlands Scientist licensed by the State of New Hampshire.

Wetlands generally do not include: a vegetated swale or roadside ditch, a sediment/detention basin, an agricultural/irrigation pond, a septage lagoon.

**2-A.2.3 Permitted Uses.**

In the Wetlands and Vernal Pool Conservation District permitted uses are only those uses which will not require the erection or construction of any structure and will not alter the natural surface configuration by the addition of fill or by excavation or dredging. The only permitted uses are:

- (a) Forestry-tree farming, using best management practices in order to protect streams from damage and to prevent sedimentation.
- (b) Cultivation and harvesting of crops and pasturage according to USDA approved soil conservation practices, including the protection of wetlands from pollution caused by fertilizers, pesticides and herbicides used in such cultivation.
- (c) Wildlife refuges, conservation areas and nature trails.
- (d) Open space and passive outdoor recreation.
- (e) Non-commercial water impoundments and well supplies - both public and private, providing said use will not result in altering of adjacent surface water levels.

**2-A.2.4 Special Exception.**

In the Wetlands and Vernal Pool Conservation District only the following uses may be allowed by special exception. All applications for special exception uses in the Wetlands and Vernal Pool Conservation District shall be referred by the Zoning Board of Adjustment to the Conservation Commission at least eight (8) days prior to the hearing for review and comment.

- (a) Streets, roads, driveways and utility easements, including power lines and pipe lines, if essential to the productive use of land located outside the Wetlands and Vernal Pool Conservation District and if constructed to minimize any detrimental impact upon the wetlands.
- (b) The undertaking of a use not otherwise permitted by Section 2-A.2.3 which may include the dredging, filling, draining, or otherwise altering the surface configuration of the land (in compliance with RSA 483-A), if it can be shown that such proposed use will not conflict with the purpose and intentions of Section 2-A.2.1, and if such proposed use is otherwise permitted by the Zoning Ordinance. Proper evidence to this effect shall be submitted in writing to the Board of Adjustment and shall be accompanied by the findings of a review by the Hillsborough County Conservation District/USDA Natural Resources Conservation Service (or its successor agency) of the environmental effects of such proposed use upon the wetlands in question.

**2-A.2.5 Variances.**

All appeals and applications for variances shall be referred by the Board of Adjustment to the Conservation Commission at least eight (8) days prior to the hearing for review and comment.

**2-A.2.6 Prohibited Uses.**

- (a) Within the Wetlands and Vernal Pool Conservation District and within 100 feet of the district boundary, the following uses are prohibited:
  - (1) Septic Systems.
  - (2) Storage, subsurface or otherwise, of petroleum and other refined petroleum products, with the exception of above ground storage of propane which is permitted provided it is 50 feet or more from the district boundary.
  - (3) Dumping of snow containing de-icing chemicals.
  - (4) Underground disposal of brush and/or stumps.
  - (5) Disposal of solid waste/landfills.
  - (6) Wastewater treatment plants.
  - (7) Clear cutting.
  - (8) Use and storage of fertilizers, pesticides, herbicides and other toxic substances.
  - (9) Impermeable surfaces including, but not limited to, driveways. Not included in this requirement are paved aprons as required by the state or town.
- (b) In addition, no structure will be erected within 100 feet of any vernal pool or any wetland greater than 3,000 square feet in area.

**2-A.3 STEEP SLOPE DISTRICT.**

**2-A.3.1 Purpose.**

The purposes of the Steep Slope District are to prevent development on slopes in excess of 25 percent and to reasonably regulate development on lesser slopes. Development on steep slopes causes soil erosion and stream sedimentation; unnecessary loss of vegetative and ground cover and destruction of trees; on-site waste disposal problems; difficult street construction; and expensive street maintenance.

**2-A.3.2 Description of Steep Slopes District.**

The Steep Slope District includes all areas of Francestown with slopes of 15 percent or more. The slope of the natural terrain shall be determinative of whether or not land is within the district. As a general guide, areas of steep slopes are delineated on the Slopes Plan prepared as part of the Francestown Master Plan.

**2-A.3.3 Permitted Uses.**

- (a) **Slopes of 25% or More:** On slopes of 25% or more only the following uses that do not result in the erection of any structure, road, driveway, or other surface alteration are permitted:
  - (1) Forestry and tree farming using best management practices in order to protect streams from damage and to prevent sedimentation.
  - (2) Agriculture, including grazing and maintenance/ harvesting of hay fields.
  - (3) Drainage ways, streams, creeks or other paths of normal water runoff.
  - (4) Wildlife refuges, conservation areas and nature trails.

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(b) **Slopes from 15% to 24%:** Uses otherwise permitted by this ordinance may be constructed on slopes from 15% to 24% provided that:

- (1) A Sediment and Erosion Control Plan is approved by the Planning Board according to standards and procedures described in the Town's Subdivision and Site Development regulations; and
- (2) There is an adequate on-site water supply for firefighting as determined by the Board of Selectmen in consultation with the Fire Chief; and
- (3) No road grade exceeds 10%; and
- (4) All federal, state and local approvals have been received.

**2-A.3.4 Special Exceptions.**

In the Steep Slope District only the following uses may be allowed by special exception. All applications for special exception uses in the Steep Slope District shall be referred by the Zoning Board of Adjustment to the Conservation Commission at least eight (8) days prior to the hearing for review and comment.

Alpine ski trails/slopes and lift facilities.

**2-A.3.5 Variances.**

All appeals and applications for variances shall be referred by the Board of Adjustment to the Conservation Commission at least eight (8) days prior to the hearing for review and comment.

**2-A.3.6 Prohibited Uses on Slopes of 25% or More.**

Septic Systems.

**2-A.4 FLOOD PLAIN DISTRICT.**

**2-A.4.1 Purpose.**

The purposes of the Flood Plain District are: (1) to control building and land uses on flood plains which would result in the alteration of naturally occurring flood-prone areas, and would create unnecessary hazards due to the threat of flooding; and (2) to protect natural water flowage and drainage; and (3) to encourage those uses that can be appropriately and safely located within the flood plains.

**2-A.4.2 Description of Flood Plain District.**

The Flood Plain District includes all area within the Special Flood Hazard area (i.e. 100 year flood plan) identified in the "Flood Insurance Study for the County of Hillsborough, N.H." dated September 25, 2009 or as amended, together with the associated Flood Insurance Rate Maps dated September 25, 2009 or as amended, which are part of this ordinance and hereby incorporated by reference.

**2-A.4.3 Prohibited Uses.**

In the Flood Plain District the following are prohibited:

- (a) Disposal of solid waste.

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- (b) Subsurface storage of petroleum and other refined petroleum products.
- (c) Outside unenclosed storage of road salt.
- (d) Dumping of snow containing de-icing chemicals.
- (e) Junk and salvage yards.
- (f) Wastewater treatment plants.
- (g) Any use including, but not limited to, residential housing, commerce, industry, streets and utility easements, that would result in increased flood heights, additional threats to public safety or extraordinary public expense.

**2-A.4.4 Special Exceptions.**

All applications for special exception uses shall be referred by the Board of Adjustment to the Conservation Commission at least eight (8) days prior to the hearing for review and comment.

No special exception shall be granted if the proposed use would result in increased flood heights, additional threats to public safety or extraordinary public expense.

**2-A.4.5 Variances.**

All appeals and applications for variances shall be referred by the Board of Adjustment to the Conservation Commission at least eight (8) days prior to the hearing for review and comment. The procedure for handling such matters is, otherwise, governed by **ITEM IX** of the Flood Hazard Building Code.

**2-A.5 AQUIFER PROTECTION DISTRICT**

**2-A.5.1 Purpose.**

The purposes of the Aquifer Protection District are: (1) to control building and land uses on natural aquifer areas which would contribute to pollution of groundwater by sewage or toxic substances; and (2) to protect, preserve and maintain groundwater supply and groundwater recharge areas within the Town; and (3) to preserve and protect present and potential sources of water supply for the public health and safety; and (4) to prevent unnecessary or excessive expenses to the Town to provide and maintain essential services and utilities due to inappropriate use of aquifers; and (5) to encourage those uses that can be appropriately and safely located within the aquifer areas.

**2-A.5.2 Description of Aquifer Protection District.**

The Aquifer Protection District includes all areas within the outermost edges of the surficial extent of all aquifer deposits as delineated by the Saturated Thickness, Transmissivity, and Materials of Stratified-Drift Aquifers in the Middle Merrimack River Basin, South-Central New Hampshire map, as prepared in 1994 by the U.S.G.S. in cooperation with the NH Department of Environmental Services

**2.A.5.3 Prohibited Uses.**

In the Aquifer Protection District the following are prohibited:

- (a) Disposal of solid waste.

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- (b) Subsurface storage of petroleum and other refined petroleum products.
- (c) Disposal of liquid or leachable wastes, except from one-family or two-family residential subsurface disposal systems.
- (d) Outside unenclosed storage of road salt.
- (e) Dumping of snow containing de-icing chemicals.
- (f) Commercial animal feedlots.
- (g) Mining of land.
- (h) Commercial excavation of sand or gravel, except those conducted in accordance with an approved excavation permit issued pursuant to this ordinance.
- (i) All on-site handling, storage, disposal, processing or recycling of hazardous or toxic materials or liquids, including bulk storage of toxic material for resale or distribution.
- (j) Automotive service and repair shops, junk and salvage yards.
- (k) Wastewater treatment facilities.
- (l) Underground disposal of brush and/or stumps.

### **2-A.5.4 Special Aquifer Protection Criteria.**

The Planning Board shall not approve a site plan and the Board of Adjustment shall not grant a special exception or variance that:

- (a) Detrimentally affects the quality of the groundwater contained in the aquifer by directly contributing to pollution or by increasing the long-term susceptibility of the aquifer to potential pollutants; or
- (b) Causes a significant reduction in the long-term volume of water contained in the aquifer or in the storage capacity of the aquifer; or
- (c) Discharges wastewater on-site that is not typical domestic wastewater.
- (d) All appeals and applications for variances shall be referred by the Board of Adjustment to the Conservation Commission at least eight (8) days prior to the hearing for review and comment.

### **2-A.5.5 Boundary Questions.**

When the actual boundary of the Aquifer Overlay is in dispute by any owner or abutter affected by said boundary, the Planning Board or Board of Adjustment (as applicable), at the owner/abutter's expense and request, may engage a professional geologist or hydrologist to determine more accurately the precise boundary of said Aquifer Protection District, who shall submit his findings, including:

- (a) A detailed topographic layout of the subdivision and/or area to be developed, prepared by a registered land surveyor.
- (b) A revised soils map of the subdivision and/or area prepared by a soils scientist qualified in hydrologic studies including a written report of his on-site field inspection, test boring, and other data.

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- (c) The aquifer boundary as shown on the U.S. Geological Survey Map shall be overlaid on the plat and the newly proposed boundary location shall be indicated on the same plat by a broken line.

**2-A.6 SHORELANDS DISTRICT**

**2-A.6.1 Purposes.**

The purposes of the Shorelands District are: (1) to control building and land uses on shorelands which would result in excessive soil erosion and contribute to pollution of surface and groundwater by sewage or toxic substances; and (2) to protect and preserve an adequate natural buffer area upon the shorefront lands in order to maintain the aesthetic appeal of these non-renewable resources, and to assist in maintaining water quality; and (3) to encourage those uses that can be appropriately and safely located upon shorelands; and (4) to protect wildlife habitats and travelways.

**2-A.6.2 Description of Shorelands District.**

The Shorelands District includes:

- (a) All land within 500 feet of the mean high water level of:
  - Pleasant Pond                      Dennison Pond                      Pond "B"
  - Shattuck Pond                      Haunted Lake (aka Scobie Pond)
- (b) All land within 50 feet of the mean high water level of any other pond or perennial stream listed in Tables 1 and 2 of the "1989 Water Resource Management and Protection Plan" and as shown on Map 3, "Surface Water Map", of the same plan, and as amended.

**2-A.6.3 Permitted Uses.**

- (a) Single-family detached housing, provided that applicable setbacks and standards are met.
- (b) Thinning/cutting of trees provided that it meets RSA 483-B.
- (c) Cultivation and harvesting of crops and pasturage according to recognized soil conservation practices including the protection of water bodies and watercourses from pollution caused by fertilizers, pesticides and herbicides used in such cultivation.
- (d) Docks, piers and beaches provided that all applicable state permits are obtained.
- (e) Municipal recreation areas and access points.
- (f) Open space, wildlife refuges, conservation areas and nature trails.
- (g) Non-commercial water impoundments and well supplies, both public and private, providing such uses will not result in altering of adjacent surface water levels and all applicable state permits are obtained.
- (h) Drainage ways, streams, creeks or other paths of normal water runoff.

**2-A.6.4 Special Shorelands Protection Standards.**

- (a) Septic systems are prohibited within 125 feet of the mean high water level of any pond, river or stream protected by the Shorelands District.

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- (b) Roads, driveways and all structures other than docks and piers shall be set back 100 feet or more from the mean high water level of any stream or pond listed in 2-A.6.2(a) and 50 feet from the mean high water level of any stream or pond listed in 2-A.6.2(b).
- (c) Lots fronting on any pond listed in 2-A.6.2(a) shall have at least 200 feet of continuous water frontage and at least 3 acres of land area.
- (d) Any shorefront lot serving a multi-family dwelling or having deeded access arrangements for a subdivision or other development shall have an additional 25 feet of continuous water frontage for each dwelling unit served greater than two (2).
- (e) The following requirements shall apply whenever three or more use easements, rights or privileges are granted to use shorefront lots for recreational purposes or whenever three or more owners purchase a shorefront lot for recreational purposes:
  - (1) Site plan review approval shall be received from the Planning Board, which shall consider the recommendations of the Conservation Commission before acting on the plan.
  - (2) No more than one easement or family use privilege shall be granted for any dwelling unit, and only for dwelling units located in Francestown.
  - (3) An additional 25 feet of continuous water frontage shall be provided (i.e. beyond 200 feet) for each dwelling unit, owner or privilege greater than two (2).
  - (4) No structures other than swimming and boat docks, changing rooms, sanitary facilities and picnic pavilions shall be built on any such shorefront lot. Such facilities shall comply with all other requirements of 2-A.6.
  - (5) A common boat launch and boating area may be provided on shorefront lots for owners or holders of easements or privileges and shall be separated from swimming areas to insure safety. Plans for any launch and boating area shall be approved by the Planning Board, in consultation with the Conservation Commission, before application is submitted to the Wetlands Board for a State permit.

### **2-A.6.5 Special Exceptions.**

In the Shorelands District the following may be allowed by special exception. All applications for special exceptions shall be referred by the Board of Adjustment to the Conservation Commission for review and comment at least 8 days prior to the hearing.

- (a) Dams provided that all applicable State permits are obtained.
- (b) For residential dwellings within 100 feet of ponds and streams listed in 2-A.6.2(a) and within 50 feet of ponds and streams listed in 2-A.6.2(b): Additions that are not closer to the protected water body than the closest part of the existing dwelling and that do not exceed the lesser of 50 percent of the living area existing at the time of enactment of this ordinance or 500 square feet of living area. For the purpose of this section only, living area is the total area of all interior floor space, regardless of floor level, except unfinished basements and unfinished attics. Porches and decks which have been enclosed shall be considered part of the living area.
- (c) Driveways and residential structures and accessory buildings may be located within 50 feet of the mean high water level of ponds and streams listed in 2-A.6.2(b) provided that

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such improvements cannot be physically accommodated anywhere else on the lot and provided that all other standards are met.

### **2-A.6.6 Variances.**

All appeals and applications for variances shall be referred by the Board of Adjustment to the Conservation Commission at least eight (8) days prior to the hearing for review and comment.

## **ARTICLE III GENERAL PROVISIONS**

### **3.1 Non-conforming Uses, Structures and Lots**

#### **3.1.1 Non-conforming Uses.**

A lawful use existing at the time of the adoption of this ordinance may be continued, so long as it remains otherwise lawful.

- (a) The use may be enlarged, extended or altered within either a new or existing structure provided all other zoning requirements are met and the use area is increased not more than 20 per cent from the area so used at the time of the adoption of the ordinance or amendment making the use non-conforming.
- (b) If superseded by a permitted use, it shall thereafter conform to the regulations of the district and the nonconforming use may not thereafter be resumed.
- (c) If discontinued or abandoned for one year, a non-conforming use shall not be resumed and the property shall thereafter conform to the regulations of the zoning district.
- (d) A non-conforming use may be superseded by another non-conforming use provided the Board of Adjustment, using the general criteria for Special Exceptions in Article VII, determines that the proposed use is less objectionable than the existing use. In the event that a new non-conforming use is allowed, the original non-conforming use shall not thereafter be resumed.

#### **3.1.2 Non-conforming Structures.**

A structure in existence at the time this ordinance is adopted and which does not comply with the regulations contained herein, may remain subject to the following conditions:

- (a) No additions shall be made which make the structure more non-conforming.
- (b) Normal repairs, renovations and maintenance may be made to any non-conforming structure or structure containing a non-conforming use. If such a structure or use is destroyed by any means, such structure or use may be reconstructed and used as before such damage provided such reconstruction is commenced within twelve (12) months and completed within twenty-four (24) months after the date of the original damage or destruction.

#### **3.1.3 Non-conforming Lots.**

A non-conforming lot may be used as a building lot for purposes of single family dwellings, for Section 7.10.2 uses and as otherwise stipulated in the ordinances, provided that the lot:

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- (a) was assessed as an individual lot by the Town of Fracestown on April 1, 1999 and/or was part of a subdivision plat recorded in the Office of the Hillsborough County of Deeds, and
- (b) has frontage on a Town or State-maintained highway which is sufficient to provide adequate access to the lot, and
- (c) has sufficient area to accommodate adequate sewage disposal facilities and water supplies, and
- (d) satisfies all other provisions of the Zoning Ordinance.

Non-conforming lots shall not be made more non-conforming.

### **3.2 Backland lots.**

Backland lots for single-family dwellings shall be permitted, provided each such lot meets all of the following requirements.

- (a) Each lot shall be at least ten (10) acres in area.
- (b) Only one single-family dwelling shall be erected or placed on each such lot.
- (c) Each lot shall have not less than fifty (50) feet contiguous frontage on a road Class V or better and shall have a fifty (50) foot access owned in fee by the owner of the backland lot.
- (d) No building shall be erected or placed closer than four hundred (400) feet from the centerline of the road.
- (e) No more than one (1) backland lot shall be created for each lot created in accordance with provisions of Table 1.

### **3.3 Ruined Buildings.**

No owner or occupant of land shall permit buildings ruined by fire or other causes to be left indefinitely, but within twelve (12) months after the date of the original damage or destruction shall remove or refill the same to clear ground level or shall begin to repair, rebuild or replace the structure. Such repair, rebuilding or replacement shall be complete within twenty-four (24) months after the date of the original damage or destruction.

### **3.4 Sewage Disposal.**

All sewage disposal systems shall be constructed and maintained in accordance with the standards of the New Hampshire Water Supply and Pollution Control Commission, or of this ordinance where it is more stringent, or of the Town subdivision regulations. In any case where the zoning ordinance or subdivision regulations impose higher standards, the more stringent regulations shall apply.

### **3.5 Obnoxious Uses.**

Any uses that are demonstrated to be offensive or injurious due to odor, dust, smoke, refuse matter, fumes, noise, vibrations, or similar conditions, or that are dangerous to the public health, safety and welfare of the community shall be prohibited. Customary agricultural uses are expressly excluded from these provisions.

**3.6 Height Regulations.**

The height of structures shall not exceed thirty-five (35) feet to the highest point of the structure measured from the highest exterior grade at the foundation line, except for domestic radio and television antennas including dish antennas up to four (4) feet in diameter, silos for storage of feed crops or other farm outbuildings, church towers, water storage structures, chimneys, solar or wind-operated devices and wireless communication facilities.

**3.7 Junkyards.**

No junk yard or place for storage of discarded machinery, vehicles or other materials shall be established in any district.

**3.8 Recreational vehicles.**

Recreational vehicles designed for camping and traveling may be parked on a lot owned by the owner of the vehicle and by a guest of the property owner. Such vehicles, limited to one owned by the property owner and one owned by his/her guest may be so parked and occupied for no more than 90 days in any calendar year. After a property owner has received a building permit for the construction of a dwelling, the Board of Selectmen (or Building Inspector) may issue a permit to allow a recreational vehicle to remain on a lot for up to one year.

**3.9.1 In-home businesses** which involve a) an indoor service, b) a professional office or an indoor job such as tele-commuting or tele-marketing, c) a product manufactured on premise or d) the retail sale of products manufactured on the premises are permitted as long as the following criteria are met:

- (a) The use is clearly incidental and secondary to the use of the premises for dwelling purposes and is conducted entirely within an existing dwelling or accessory building customarily associated with the residential use of a lot.
- (b) The use does not change the residential character of the neighborhood and does not reduce the value of surrounding property.
- (c) The business does not have an adverse effect on the environment or the surrounding properties as a result of nuisances including, but not limited to, noise, odors, smoke, dust, lights, soil, water or air pollution, vibration, glare, electrical disturbances, excessive increases in traffic or frequent visits by heavy trucks or equipment.
- (d) Only one sign solely for identification purposes, which shall not exceed 3 square feet, is in evidence; window and outside merchandising are not permitted.
- (e) The business conforms with all applicable federal, state and local laws and regulations.
- (f) Off-street parking for employees and visitors, in connection with the home occupation, is provided.
- (g) There is no exterior storage of commercial material or equipment, including the parking of more than one commercial vehicle and no other exterior indication - excluding a sign - of such use or variation from the residential character of the premises.
- (h) There are no more than two employees, other than residents of the premises.

**3.9.2 Home-based businesses** whose primary activity, is performed at a site other than the home lot - such as contractual services, including, but not limited to, general contractors,

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building trades contractors, landscapers, carpenters, plumbing, heating and electrical contractors - are permitted as long as they meet the standards of 3.9.1 above.

### **3.10 Setbacks.**

- (a) **Front** Setback. Except as provided below and as provided in Articles 3.2, 3.16, Article 5 and Article 7, buildings, porches, decks, swimming pools, athletic courts, windmills, satellite dishes, solar collectors and communications antennae shall be set back 100 feet from the centerline of the road.

Principal buildings on a lot may be constructed in line with the front setback of existing principal buildings on the same side of the street if such buildings are within 150 feet thereof.

- (b) **Side/Rear** Setbacks. Except as provided below and as provided in Article 5 and in Article 7, buildings, porches, decks, swimming pools, athletic courts, windmills, satellite dishes, solar collectors and communications antennae shall be set back 50 feet from any internal property line.

(c) **Exceptions.**

- (1) Buildings which are non-conforming in regard to setback may be expanded:
- (i) upward to a height not to exceed 35 square feet and
  - (ii) along any non-conforming property line setback line(s) provided that there is no new encroachment on another setback line(s).
- (2) Non-commercial communications antennae in conformance with Section 3.6 may be placed on roofs of buildings which are non-conforming in regard to setback.
- (3) Improvements required by the Americans with Disabilities Act, other free-standing handicap access structures and outside fire escapes/stairways are exempt from setback requirements.
- (4) School bus shelters are exempt from setback requirements provided that the structure be removed if unused for a period of greater than one year.
- (5) Camping tents, party pavilions, sales booths and similar structures which are erected for periods not to exceed 90 days in a year are not subject to setback.

### **3.11 Accessory Dwelling Units.**

A dwelling unit accessory to a single family detached residence is allowed on lots of 3 acres or more provided that the following conditions are met.

- (a) The residential structure lies outside the shoreland overlay district and more than 100 feet from any vernal pool or any wetland greater than 3,000 square feet in area as provided in Section 2-A.2.6(b)
- (b) There is only one residential structure on the lot, and only one accessory apartment within or attached to that structure. Accessory dwelling units are not permitted in detached accessory buildings.
- (c) The accessory apartment is no larger than 30% of the floor area of the principal residence.
- (d) The accessory dwelling unit shall be occupied by not more than two people.

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- (e) Either the accessory dwelling unit or the primary residence shall constitute the domicile of the owner of the lot on which the residence is situated.
- (f) The sewage disposal system design for the residence, either existing or as it may be modified, shall have been approved by the Town Building Inspector and by the NH Division of Water Supply and Pollution Control. In the case of conversions, a copy of such approvals shall be filed with the Planning Board prior to any interior or exterior alterations.
- (g) The accessory apartment shall not be rented as transient quarters and the right to rent or sublet shall not be permitted for periods of less than 30 days.
- (h) Adequate off-street parking shall be provided.

### **3.12 Two-Family Conversions.**

Conversion of a single-family detached residence to two attached dwelling units is permitted in the Rural District provided the following conditions are met:

- (a) Two-family housing is not otherwise prohibited by the ordinance on the lot in question.
- (b) There is only one residential structure on the lot.
- (c) The sewage disposal system design for the use shall have been approved by the Town Building Inspector and by the NH Division of Water Supply and Pollution Control. A copy of such approvals are filed with the Planning Board prior to interior or exterior alterations/construction.
- (d) Adequate and appropriate provisions are made for off-street parking.
- (e) The dimensional requirements of Table 1 are observed.

### **3.13 Landing Areas/Strips.**

Landing areas and/or strips for contrivances designed for flight in the air are not accessory uses and are permitted only as provided below or in Section 7.15 of the zoning ordinance. The landing/takeoff of hot air balloons, hang gliders, powered parachutes and ultralight vehicles is a permitted use in the rural and village districts.

### **3.14 Phased Development.**

The Planning Board may require that a development be constructed in phases, according to a schedule which will be consistent with the capacity of public services and facilities, including, but not limited to, schools and transportation, and with the building and capital improvement plans to provide those services as developed by the Town of Francestown and the Contoocook Valley School District. The authority vested under this ordinance is pursuant to RSA 674:21, and the Planning Board shall have exclusive jurisdiction. The Planning Board may adopt such regulations as it deems prudent and necessary to effectuate this ordinance

### **3.15 Outdoor Lighting Regulations.**

All public and private outdoor lighting installed in the Town of Francestown shall be in conformance with the following standards. The purpose of these standards is to reduce light trespass, glare and light pollution, and promote conservation of energy while maintaining nighttime aesthetics, safety, security, productivity and enjoyment for all Francestown residents.

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- (a) **Lighting shall be designed** to adequately illuminate a site and parking areas without causing glare or excessive illumination on neighboring properties or streets. Any lighting fixture with a lamp or lamps rated at a total of more than 1800 lumens shall not emit any direct light above a horizontal plane passing through the light source(s).

NOTE: Most light bulbs come with a tested lumen rating; a typical 100 watt incandescent bulb delivers approximately 1700 lumens. Actual lumen output depends on the bulb manufacturer and operating conditions.

- (b) **Acceptable light sources** are incandescent, fluorescent and metal halide. All other light sources including any flickering or pulsing light are prohibited.
- (c) **Outdoor lighting shall be turned off** or reduced in intensity by 11 p.m. unless an activity being lighted extends beyond that time. Any business, school, or institutional lighting used after work hours shall be security lighting only, reduced from the level of full illumination lighting. Similarly, lighting of parking lots shall either be turned off or noticeably reduced to security levels after the closing of business. The intention of this requirement is to reduce after-hours illumination to the greatest extent while recognizing the need for security lighting.
- (d) **The following are exempt** from the lighting and glare standards described above:
- (1) Installations existing prior to the enactment of this ordinance (on March 13, 2001) are exempt from its requirements. However, any changes to the existing lighting system, fixture replacements, or any grandfathered lighting system that is moved, must meet these standards.
  - (2) Fixtures of 1800 lumens or less, approximately the equivalent of a 100-watt or less incandescent light bulb, except that if any such spotlight or floodlight is aimed, directed, or focused such as to cause direct light to shine toward residential buildings on adjacent or nearby land, or to create glare perceptible to persons operating motor vehicles on public ways, the lighting system shall be redirected or its light output controlled as necessary to eliminate such conditions.
  - (3) Lighting of the American Flag.
  - (4) Historic monuments and statues, including the Fracestown Academy (Town Hall) Building and The Old Meeting House.
  - (5) Municipal street lighting.
  - (6) Emergency safety lighting.

(e) **Recreational Facilities.**

Any light source permitted in (b) above may be used for lighting of outdoor recreational facilities (public or private), such as, but not limited to, tennis courts, soccer fields, baseball fields, or show areas, provided all of the following conditions are met:

- (1) All fixtures used for event lighting shall be fully shielded so that no direct light is projected above a horizontal plane passing through the light sources, and be designed or provided with sharp cut-off capability, so as to minimize up-light, spill-light, and glare.
- (2) All events shall be scheduled so as to complete all activity before or as near to 10:30 p.m. as practical, but under no circumstances shall any illumination of the playing field,

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court, or track be permitted after 11:00 p.m. except to conclude a scheduled event that was in progress before 11:00 p.m. and circumstances prevented concluding before 11:00 p.m.

(f) **Law Governing Conflicts.**

Where any provision of federal, state, county, or town statutes, codes, or laws conflicts with any provision of these lighting standards, the most restrictive shall govern unless otherwise regulated by law.

### **3.16 Farm Roadside Stands.**

Farm roadside stands are agricultural, not commercial, operations and are permitted in the Rural and Village Districts provided the following criteria are met:

- (a) At least 35% of the dollar volume is attributable to the sale of product grown or produced on the farm or farms of the stand owner.

Proof of farm income may be required to determine conformity with these provisions. Farm stand owners not wishing to make such information available shall apply for a special exception as a commercial, retail operation.

- (b) Sufficient off-street parking outside the right-of-way is provided for customers and employees.
- (c) Only one sign solely for identification purposes, which shall not exceed 3 square feet, is in evidence.
- (d) The farm roadside stand is located on the farm or farms of the farm stand owner.
- (e) The operation is in compliance with all federal, state and local regulations, except 3.16(f)(3) below.
- (f) One farm stand facility is permitted within the front setback provided that:
- (1) It was legally constructed prior to 2014 or is a portable, unenclosed structure of 100 square feet or less and
  - (2) No structure shall be within the right-of-way or otherwise interfere with road travel and maintenance.
  - (3) Structures placed in the setback area under Section 3.16 after March 11, 2014 shall be kept in good repair and shall be removed when the farm stand ceases operation for 12 months or more.

## **ARTICLE III-A IMPACT FEES**

### **3-A.1 Purpose.**

This ordinance is enacted pursuant to RSA 674:21, and in order to: (1) Promote the public health, safety and welfare and prosperity; (2) Ensure that adequate and appropriate facilities are available to individuals who may come to be located in the Town of Fracestown; (3) Prevent scattered or premature development of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire protection, or other public services, or necessitate the excessive expenditure of public funds for

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the supply of such services; (4) Provide for the harmonious development of the municipality and its environs; (5) Ensure the proper arrangement and coordination of streets; and, (6) Ensure streets of sufficient width to accommodate existing and prospective traffic.

### **3-A.2 Authority to Assess Impact Fees.**

The Planning Board is hereby authorized to assess impact fees, as herein defined, and in accordance with the standards herein set forth. The Planning Board shall have the authority to adopt regulations to implement the provisions of this ordinance.

### **3-A.3 Assessment Methodology.**

The amount of any impact fee shall be a proportional share of municipal capital improvement costs which is reasonably related to the capital needs created by the development, and to the benefits accruing to the development from the capital improvements financed by the fee. Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees.

### **3-A.4 Administration of Impact Fees.**

Each in fact impact fee shall be accounted for separately, shall be segregated from the Town's general fund, may be spent upon order of the governing body, and shall be used solely for the capital improvements for which it was collected, or to recoup the cost of capital improvements made in anticipation of the needs for which fees are collected to meet.

All impact fees shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development.

Between the date of assessment and collection, the Planning Board may require developers to post security, in the form of a cash bond, letter of credit or performance bond so as to guaranty future payment of assessed impact fees.

Impact fees shall be collected as a condition for the issuance of a Building Permit; provided however, in projects where off-site improvements are to be constructed simultaneously with a project's development, and where the Town has appropriated the necessary funds to cover such portions of the work for which it will be responsible, the Town may advance the time of collection of the impact fee to the issuance of a building permit.

The Planning Board and the assessed party may establish an alternate, mutually acceptable schedule of payment of impact fees.

### **3-A.5 Return of Impact Fee.**

If the full impact fee assessed under this ordinance is not encumbered or otherwise legally bound to be spent for the purpose for which it was collected within six years, the fee shall be refunded to the assessed party, with any accrued interest.

Whenever the calculation of the impact fee has been predicated upon some portion of capital improvement costs being borne by the Town, a refund shall be made upon the failure of the Town Meeting to appropriate the Town's share of the capital improvement costs within six (6) years from the date of payment thereof.

**3-A.6 Applicability.**

This ordinance shall not be deemed to affect the existing authority of the Planning Board over subdivisions and site plans, including, but not limited to the authority to declare a development to be premature or scattered in accordance with the regulations of the Board and in accordance with RSA 674:36, II(a).

**ARTICLE IV SIGNS**

**4.1 Purpose.**

It is the intent of this ordinance to preserve Franeestown's rural character and natural scenic beauty by minimizing road signage. No more than two on-premise signs may be displayed advertising the business of the owner or operator upon the premises wherein the business is operated. No signs shall be affixed to any utility pole or traffic sign. No other signs or billboards may be displayed in any zone except as provided in Section 4.8 and:

- (a) those advertising real property for sale or rent upon the property so offered;
- (b) political signs during the political campaign with the express permission of the property owner upon whose land the sign is displayed, providing that all such signs shall be removed within 48 hours after the election day for which they were erected;
- (c) temporary directional signs for special events provided that such signs shall not be displayed more than 24 hours in advance of the subject event and shall be removed within 24 hours after the termination of the event;
- (d) signs posting property against trespassing, hunting or fishing;
- (e) signs identifying the owner or occupant of the property; and
- (f) directional signs as provided in Section 4.8

**4.2 All signs shall be maintained** in good condition and in good repair at all times. Any sign or sign structure which is or becomes in disrepair in the opinion of the Selectmen, shall be removed upon order of the Selectmen if not repaired or removed by the owner after thirty (30) days notice.

**4.3 No sign shall exceed** twelve square feet in area. If more than one sign is attached to a single sign-post, the cumulative total of signs shall not exceed twelve square feet in area.

**4.4 All signs shall be erected** and maintained in such a way that they do not endanger traffic by obstructing the view of the street or intersection.

**4.5 Neon**, tubular gas, moving or flashing signs shall not be permitted.

**4.6 Signs shall be lighted** only by indirect light, and the beam of such lighting shall not extend beyond the boundaries of the lot on which the sign is placed. Light sources to illuminate signs shall be located above the objects to be illuminated and shall be fully-shielded so that the light source is not visible from public ways and adjacent property.

**4.7 No sign shall project** beyond the property line or extend over or into a right of way unless a variance is granted by the Board of Adjustment. No such variance shall be granted unless the Board of Adjustment finds that the proposed projecting sign will not interfere with traffic or pedestrian travel and will be in keeping with the character of the surrounding neighborhood.

**4.8 Directional Signs.** Where the Selectmen determine that the public convenience and necessity so require, directional signs to businesses and other facilities within the town may be placed in the town right of way at or near intersections. There shall be no more than one sign for any intersection, regardless of the number of businesses and no individual sign shall exceed six square feet in area, contain information that is not directional in nature, or be lighted. The exact size and placement of such signs shall be determined by the Selectmen in accordance with the spirit of this ordinance. Such signs shall be maintained in accordance with section 4.2 and 4.4.

## **ARTICLE V OPEN SPACE DEVELOPMENT**

### **5.1 Authority.**

The Open Space Development (OSD) Ordinance has been adopted by Town Meeting Vote of the Town of Francestown, New Hampshire pursuant to RSA 674:21, Innovative Land Use Controls. The Planning Board shall be the sole authority responsible for implementing the terms of this ordinance, may adopt regulations necessary to implement the terms of the ordinance, and any person aggrieved by a decision of the Planning Board under the terms of the OSD ordinance shall appeal directly to the Superior Court in accordance with RSA 677:15.

### **5.2 Purpose.**

The purpose of the OSD Ordinance is to: (1) Promote a more efficient use of land requiring a smaller network of streets and utilities; (2) Promote the preservation of open space, farmland, recreation areas, green space, fields and woods, valuable wildlife habitat, and outstanding topographic, natural, cultural, and historic features; (3) Provide wildlife corridors connecting open spaces, needed by wildlife to ensure their survival; (4) Discourage the sprawling, land-consuming form of development usually resulting from conventional subdivision; (5) Promote the efficient provision of municipal services and protect existing and potential water supplies; (6) Maintain the rural and scenic character of the Town of Francestown; (7) Reduce erosion and sedimentation by the retention of existing vegetation, and the minimization of development on steep slopes; (8) Promote the siting of buildings which is sensitive to existing natural and historic features; (9) Protect the value of real property; (10) Create compact neighborhoods accessible to open space amenities and with a strong community identity and quality of life; (11) Provide for a variety of lot sizes, building densities, and housing choices to accommodate a variety of age and income groups; (12) Implement adopted land use, transportation, and community policies, as identified in the Town's Master Plan.

### **5.3 Definitions:**

**Common Area** – Any area, other than designated open space, set aside for common ownership as a result of an Open Space Development, including areas for common facilities such as roads, rights of way, common or individual utilities including wells, common buildings, and recreational facilities.

**Common Facilities** – Built facilities which are commonly owned by the property owners within an Open Space Development. Common facilities may be proposed but are not required. They may include wells, water and waste treatment systems, and recreation facilities.

**Open Space** – Undeveloped land within an Open Space Development which is designated and intended for the common use or enjoyment of the residents of the development, and in some cases the general public. The open space shall be protected by covenants recorded with the plans and deed restrictions to ensure that the land will remain permanently open and undeveloped. Roadways and driveways may cross open space areas, but are not included in the calculation of the acreage of the open space.

**Homeowners Association** – A private non-profit organization (corporation, association, or other legal entity) to manage, maintain, support, and finance the common facilities and open space of an open space development, and enforce certain covenants and restrictions.

**Natural Resource Assessment** - A scientific study that provides data and analysis on land use, soil erosion, water quality, wetlands, and other issues regarding the conservation and use of natural resources.

**Open Space Development** – A form of development that permits buildings to be grouped on lots with dimensions, frontages, and setbacks less than the minimum conventional requirements, with the goal of increasing density on some portions of the parcel while other portions are preserved as open space. Tracts of land developed as an Open Space Development may be under single or common ownership.

#### **5.4 Applicability and Procedures of OSD:**

- (a) **Applicability:** To facilitate implementation of the goals, policies, and objectives of the Francestown Master Plan, Open Space Development shall be allowed in all zoning districts in town.

The Planning Board may require an applicant to use an Open Space Development subdivision design if the property possesses one or more of the following special features:

- (1) Agricultural land with soils designated as “prime” or of “statewide significance” by the U.S. Natural Resource Conservation Service soil surveys;
- (2) Rare, threatened, or endangered species or exemplary natural communities according to the New Hampshire Natural Heritage Inventory (Department of Resources and Economic Development);
- (3) Frontage on a Great Pond or perennial stream or river, as shown on topographical maps published by the U.S. Geological Survey;
- (4) A portion of an aquifer with a transmissivity in excess of 1,000 sq. ft. per day as shown on the Stratified Drift Aquifer Maps published and updated by the NH Department of Environmental Services;
- (5) Unique natural, cultural, and/or historical features, and particularly those identified in a Natural Resource Inventory of Francestown, the Francestown Master Plan, or other criteria as identified by the Conservation Commission.

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- (b) **General Concept Plan:** Subsequent conventional subdivision is not allowed within an OSD. However, when a proposed OSD is located on a portion of a larger land parcel capable of further subdivision, the Planning Board may require that a general concept plan for the entire parent parcel be presented so that the Board may consider the entirety of a project and its impacts. This general concept plan is non-binding, and is intended to guide the Planning Board in its assessment of the environmental, social, and economic impacts of current and possible future development.
- (c) **Natural Resource Assessment:** In order to facilitate the site evaluation, the Planning Board may engage a professional, at the cost of the applicant, to provide a natural resource assessment.
- (d) **Procedures:** OSD plan submission, review and approval procedures shall be as described in the Fracestown Subdivision Regulations.

### **5.5 Permitted Uses.**

Single family detached residential dwellings. All other uses, where permitted or permitted by special exception in the underlying district, shall require a special exception from the Zoning Board of Adjustment. The Planning Board may restrict a specific use otherwise permitted or permitted by special exception (e.g. raising or keeping of livestock, commercial uses, in-home businesses, or daycare facilities) and may require site plan review.

### **5.6 Further Development.**

Subsequent conventional subdivision and development is not permitted within an Open Space Development.

### **5.7 Density, Dimensional, and Open Space Requirements in an OSD:**

- (a) **Tract Size:** The minimum tract size for an open space development shall be fifteen (15) contiguous acres.
- (b) **Density:** The maximum number of lots allowed within an Open Space Development subdivision shall be no greater than the number of lots that would be allowed if the parent parcel were wholly subdivided in a conventional manner (i.e.: without an open space set-aside). In order to arrive at this number, the applicant shall submit a conceptual plan, or yield plan, showing how the parcel could be subdivided in a conventional manner. For purposes of determining the number of OSD lots, each conceptual conventional lot must meet the requirements of a buildable lot as defined in the Fracestown Zoning Ordinance, and meet all other applicable requirements of the Zoning Ordinance and Subdivision Regulations.

#### Density Bonuses:

The Planning Board may award a density bonus that increases the number of buildable lots available under conventional subdivision by a maximum of twenty percent (20%), rounded to the lower whole number, for those applicants that meet the following criteria. Density bonuses shall be in accordance with the following:

- (1) **Public Access Bonus** - Where the general public is granted access to the open space, or there is a linking of open space parcels or trail corridors through the site with existing/proposed trails or open space networks, the development shall be awarded a

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density bonus of five percent (5%). The minimum nature of public access required to trigger this bonus is pedestrian traffic. The instrument granting access, acceptable to the Planning Board, may reasonably restrict the use of motorized vehicles where appropriate.

- (2) Agricultural Land and Use Bonus – Where the development protects agriculturally valuable lands and provides permission for their use as such in perpetuity, the development shall be awarded a density bonus of ten percent (10%). The open space portion preserved for agricultural use must amount to a minimum of fifty percent (50%) of the minimum required open space and must either have been historically farmed, or contain good soils for farming and be reasonably accessible. The instrument granting use, acceptable to the Planning Board, may reasonably restrict the type or intensity of farming to prevent nuisances. This provision only requires that permission is available; the fact that agricultural uses are not pursued at any particular time does not affect the validity of the bonus.
- (3) Forest Management Bonus – On sites where the open space to be preserved is mostly mature forest (70% or greater) and well distributed, as determined by a management plan developed by a NH Licensed Forester and approved by the Planning Board, the development shall be awarded a density bonus of five percent (5%).
- (4) Viewshed Bonus -Projects may be awarded a density bonus of five percent (5%) if they protect viewsheds, which are lands or corridors of land that contribute to the visual landscape of the town, including items such as open fields containing stonewalls.
- (5) LEED Bonus - Projects may be awarded a density bonus of five percent (5%) if all structures within the proposed development are to be built by the developer and are to be US Green Building Council LEED (Leadership in Energy and Environmental Design) certifiable as demonstrated by a completed LEED checklist/scorecard.
- (6) Workforce Affordable Housing - To encourage the development of diverse and affordable housing, the following bonuses for workforce affordable housing may be granted:
  - (i) If the project provides for at least 20% of the units as workforce affordable, the board may grant a density bonus of 10%.
  - (ii) If the project provides for at least 50% of the units as workforce affordable, the board may grant a density bonus of 20%.

Workforce Affordable shall be defined as affordable to households with incomes up to 100% of the Area Median Income as determined by the U.S. Department of Housing and Urban Development.

Every development seeking such bonuses shall provide the planning board with easements, covenants, or deed restrictions, which shall provide for the perpetual continuation of the performance standards used in the granting of any bonus. Said easements, covenants, or deed restrictions shall be reviewed by qualified legal counsel on behalf of the town (at the developer's expense) and approved by the planning board prior to the issuance of any final approval.

- (c) **Lot Size:** In the interest of flexibility and creative site designs, there is no minimum lot size for lots within an Open Space Development. However, lot sizes shall be adequate to provide for emergency access and to support adequate well and septic systems, dwellings, and

outbuildings. A building envelope shall be established and shown on the subdivision plan for all lots less than 2 acres within an Open Space Development.

(d) **Frontage:**

- (1) OSD Tract – The minimum frontage for a tract on which an Open Space Development is proposed shall be one hundred (100) feet. Whenever possible, the entrance road to the development shall be located such that the maximum buffer attainable can be provided on each side of the road to protect neighboring homes.
- (2) The parcel's entire frontage must be included in an Open Space Development plan, i.e. front land may not be stripped off in a conventional subdivision leaving the back land to be subdivided under the OSD option.
- (3) Existing Town Roads – Dwellings in Open Space Developments shall not front on town or state roads, existing at the time of development, or have direct access off them.
- (4) New Subdivision Roads – In the interest of flexibility and creative site designs, there shall be no minimum frontage requirements for individual lots on new subdivision roads within an Open Space Development.

(e) **Setbacks:** In the interest of flexibility and creative site designs, within an Open Space Development there shall be no minimum setback requirements for individual house lots except that proposed dwelling setbacks will be reviewed by the Fire Department and approved by the Planning Board. The maximum setback for all structures within an Open Space Development shall be 200 feet. There shall be a minimum setback for all structures of 100 feet along all property boundaries of the tract being developed.

(f) **Buffer:** A landscaped buffer no less than 100 feet deep from public roads, 75 feet deep from adjacent properties shall be provided where appropriate to screen the development. The natural vegetation shall be retained whenever possible. If the natural vegetation is not sufficient to serve as an effective visual screen, landscaping may be required to provide such a screen. This buffer area shall be part of the open space, and shall be subject to the same restrictions that apply to the open space.

(g) **Backland Lots**, as defined in section 3.2 of this ordinance, shall not be permitted in an Open Space Development.

(h) **Open Space:**

- (1) There shall be a minimum of fifty percent (50%) of the tract set aside as permanently protected open space through the use of covenants, easements, and/or deed restrictions. Said deed restrictions and documents shall be approved by the Planning Board, placed on file with the Town Clerk upon receipt of Planning Board subdivision approval, and duly recorded at the Hillsborough County Registry of Deeds. Up to 50% of the open space land may consist of wetlands, surface waters, floodplains, or areas with unaltered slopes greater than twenty-five percent (25%). Roadways and driveways shall not be counted as open space.
- (2) The open space shall be usable for the purposes of passive recreation, conservation, park or public easements, and/or agriculture. Open space areas shall be reasonably accessible to all residents of the development. Common areas, open space, and permitted uses shall be designated on the plan. Developers are encouraged to include such facilities that will enhance the natural features in the open space areas.

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- (3) Open Space Developments may be served by common water and wastewater systems. Wells and waste water systems may not be located within the open space; well protection radii may extend into open space.
- (4) The required open space shall be owned and maintained by the developer until it is owned in one or more of the following ways, subject to the approval of the Planning Board:
  - (i) By a private, nonprofit corporation, association, or other legal nonprofit entity such as a homeowners’ association, established by the applicant for the benefit and enjoyment of the residents of the subdivision and over which said residents have control.
  - (ii) By a private landowner such as a farmer or forest manager who will manage it for uses consistent with the provisions of this ordinance.
  - (iii) By a private, nonprofit organization such as the Nature Conservancy or Audubon Society, which has as its purpose the preservation of open space through ownership and control.
  - (iv) By the Town of Francestown, subject to acceptance by the Town.
  - (v) By the State of New Hampshire for permanent open space uses.

In all cases, the Town, in addition to any other entity, shall have enforcement powers.

**5.8 Interior Roads.**

Construction requirements for interior access roads shall be in keeping with the purpose of this ordinance and shall, where appropriate, be designed for the minimum impact on the environment. Specifications for interior roads and turnarounds will conform to NH DOT specifications and must be approved by the town’s department of public works and fire department.

Minimum standards for interior roads in OSD subdivisions are:

<u># of lots</u>	<u>travel width</u>	<u>shoulders</u>	<u>roadbed</u>	<u>road surface</u>
1-3	18 feet	3 feet total	12”gravel/6” minus	4” crushed gravel
4-7	18 feet	3 feet total	12” gravel/6” minus	6” crushed gravel
over 7	22 feet	3 feet total	12” gravel/6” minus	6” crushed gravel

**5.9 Community Water and Wastewater Systems.**

An OSD may include a community or common water and/or wastewater system for individual households. Such systems shall not be located on land designated as open space. Such systems shall be installed on common land by the sub-divider and shall be installed under the following conditions:

- (a) All community water and wastewater systems shall meet the design requirements of the State of New Hampshire Water Supply and Pollution Control Commission and these regulations.
- (b) Each area designated for wastewater disposal shall be large enough to accommodate the proposed system as well as an alternate location should replacement of the original system become necessary. The location and reserve area must have suitable soil according to the New Hampshire Water Supply and Pollution Control Commission rules for sewage disposal system design.

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(c) Facility Maintenance Requirements. The following requirements shall be made part of any homeowners association agreement:

- (1) The owner of the community wastewater system shall maintain a service contract with a licensed septic system contractor to ensure that the system is operational as intended. The service contract shall provide for an annual report to the Town by the licensed septic system inspector detailing the condition of the system and any repairs made that year or anticipated at the time of the report. A copy of the service contract shall be delivered to the Town for review.
- (2) The owner of any community water and/or wastewater system shall collect from the users of the system(s) an annual fee equal to the cost of repairs and an amount sufficient to establish a reasonable cost of replacement reserve. The fee should be assessed annually based upon the previous year's experience and the forthcoming service contract amount.

(d) Utilities. The Planning Board may require all or a portion of utility lines within the subdivision be placed underground.

### **5.10 Requirements of a Homeowners' Association:**

- (a) The financial and administrative obligations for future maintenance of open space, common land, and other common facilities shall be clearly stated, adequate, and enforceable by the Town, at the association's expense.
- (b) In the event that the homeowner's association established to own and maintain common land or any other successor organization shall fail to maintain the common land/facilities in a reasonable order and condition, the Planning Board or Board of Selectmen may serve written notice upon such organization and shall demand that any deficiencies of maintenance be cured in thirty (30) days of receipt of said notice. In addition, a trustee shall be designated by the homeowner's association to insure that proper care of said common space is continued. The trustee's responsibilities include, but are not limited to, passive and active recreational areas, retention ponds, drainage easements, and common water and waste water systems.

### **5.11 Severability.**

The invalidity of any provision of this Article shall not affect the validity of any other provision, nor any prior decisions made on the basis of the valid provisions of this Article.

## **ARTICLE VI MANUFACTURED HOUSING**

**6.1 Manufactured housing** may be placed on individual lots in the rural zoning district.

**6.2 A manufactured house** shall be securely anchored to a permanent foundation and shall comply with the same lot size, setback and other standards required of conventional housing in the rural district.

**6.3 Manufactured housing parks** are not permitted in any zone.

## **ARTICLE VII SPECIAL EXCEPTIONS**

### **7.1 General Provisions.**

Special exceptions are included in the zoning ordinance to provide for the establishment of activities which if properly conducted will be in conformance with the spirit of the ordinance and will not be detrimental to the general welfare of the community.

**7.1.1 The Board of Adjustment** shall act upon all applications for Special Exception. In all cases the Board of Adjustment may meet with the Planning Board at a joint public hearing or adjourned session of the Board of Adjustment hearing before rendering its decision on any application for Special Exception. The Board of Adjustment shall not, however, be bound by the recommendation of the Planning Board.

**7.1.2 In addition** to conditions provided for in the section on any listed special exception, the Board of Adjustment must find that the following conditions are met before it may grant any special exception:

- (a) **The site proposed is an appropriate location for the use.** Among the factors the Board will consider are site characteristics: topography, soils, water resources, road access and location of driveways, condition of existing structures and other relevant characteristics; site location: whether the proposed use is compatible with surrounding land use.
- (b) **The use as developed will not adversely affect the value of adjacent property.** An adverse effect on adjacent property is one which will limit the use of neighboring property by causing excessive noise, traffic, dust, fumes, glare or other conditions that are associated with the intended use but are not typical of permitted uses within the area, as well as reduce property values.
- (c) **Adequate and appropriate facilities will be provided** for the proper operation of the proposed use. Changes in land use often create the need for facilities that are not typical in a particular zone. For example, if a private dwelling is converted to an inn or restaurant, parking and sewage disposal requirements will increase significantly. A special exception should be granted only if all reasonable facility requirements will be met.
- (d) **No nuisance or hazard will be created.**
- (e) **The use will not unreasonably burden existing public services** or require excessive expenditure of public funds for supply of such services.
- (f) **The use or structure shall comply with the provisions of the life-safety code** adopted by the town and shall be approved by the Franeeestown fire chief or Selectmen as enforcing agent.
- (g) **Site plan approval by the Planning Board must be obtained** for multi-family and other non-residential uses.

**7.1.3 An applicant for special exception(s)** may not use the same acreage which has previously been dedicated or used for one special exception to meet the land requirements for any other special exception(s).

**7.1.4 The Board of Adjustment may, at the applicant's expense, engage the services of professional consultants** to review the proposal or perform any other reasonable and pertinent service.

**7.2.1 Accessory Dwelling Units.**

Single family detached dwelling units located on lots of less than 3 acres may be altered to provide for an accessory dwelling unit provided that the following conditions are met:

- (a) The requirements of Section 3.11(a) through (h) are observed at all times.
- (b) Adequate provisions for properly buffered off-street parking are made. When appropriate, limits may be set on the number of allowable vehicles to be parked and/or garaged on premise.

**7.2.2 Two-Family and Multi-Family Conversions.**

Buildings may be converted to two-family or multi-family residences under the following conditions:

- (a) There shall be no more than 1 residential building per lot and no more than 4 dwelling units in that building.
- (b) The use is not otherwise prohibited by the ordinance on the lot in question.
- (c) The sewage disposal system design shall have been approved by the Town Building Inspector and by the NH Division of Water Supply and Pollution Control.
- (d) Adequate provisions for properly buffered off-street parking are made. When appropriate, limits may be set on the number of allowable vehicles.
- (e) Dwelling units are not to be used or rented as transient quarters and the right to rent or sublet shall not be permitted for periods of less than 30 days.
- (f) In the case of multi-family conversions, site plan approval is obtained from the Planning Board.
- (g) There shall be a minimum of 2 acres per dwelling unit.
- (h) In the case of multi-family housing, side and rear setbacks shall be a minimum of 75 feet.

**7.3 Multi-Family Housing (new construction).**

Up to 4 single family attached dwelling units may be allowed on one lot provided the following conditions are met:

- (a) There shall be no more than 1 residential building per lot and no more than 4 dwelling units in that building.
- (b) The use is not otherwise prohibited by the ordinance on the lot in question.
- (c) The sewage disposal system design shall have been approved by the Town Building Inspector and by the NH Division of Water Supply and Pollution Control.
- (d) Adequate provisions for properly buffered off-street parking are made. When appropriate, limits may be set on the number of allowable vehicles.

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- (e) Dwelling units are not to be used or rented as transient quarters and the right to rent or sublet shall not be permitted for periods of less than 30 days.
- (f) In the case of multi-family conversions, site plan approval is obtained from the Planning Board.
- (g) There shall be a minimum of 2 acres per dwelling unit. In addition, the lot shall have a minimum of 2 contiguous acres of buildable land plus 1 additional contiguous acre for each unit more than 2.
- (h) The lot shall have 300 feet of frontage plus 50 feet for each unit more than two.
- (i) The multi-family dwelling shall be set back 100 feet from the centerline of the street and 75 feet from side and rear property lines.

**7.4 Bed and Breakfast** services may be offered in any existing single family dwelling provided that no more than three sleeping rooms are available for occupancy, that only breakfast meals are offered, that adequate parking is provided on premise, and that water and sewage disposal systems are adequate to accommodate the added load.

### **7.5 Excavation of Sand and Gravel, Earth or Loam.**

All excavations of earth materials require a permit from the planning board as required by Chapter 155-E of the New Hampshire Revised Statutes Annotated. In addition, they must comply with the general provisions for special exception.

### **7.6 Animal Care and Training.**

The following uses are not considered to be home occupations or in-home businesses:

- (a) veterinary clinics
- (b) the boarding and/or training of 3 or more animals not owned by the boarder/trainer
- (c) grooming/other indoor animal care services
- (d) the breeding of 2 or more female dogs during any 12-month period, and

They may however be permitted by special exception.

The advertising and promotion of a professional animal care, training, or breeding service, in any form or media, including personal or business websites, shall require the operator to seek a special exception and adhere to all requirements and regulations noted in Section 7.6.1.

#### **7.6.1 Boarding, Training and Breeding.**

The size and dimensions of the lot, as well as setback, buffering and noise abatement, shall be adequate for the type and scale of use, provided, however, that such uses are on lots of at least 5 acres, with a minimum of 300 feet of frontage. All structures associated with the use shall be set back a minimum of 150 feet from the centerline of the street and 100 feet from side and rear property lines and shall have incorporated within them all appropriate noise abatement materials/measures. Adequate sanitation and off-street parking shall be provided; all pertinent local and state licenses and permits shall be obtained and all related regulations shall be adhered to.

**7.6.2 Veterinary Clinics, Grooming and Other Indoor Services.**

The size and dimensions of the lot, as well as setback, buffering and noise abatement, shall be adequate for the type and scale of use, provided, however, that such uses are on lots of at least 3 acres, with a minimum of 300 feet of frontage. All structures associated with the use shall be set back a minimum of 100 feet from the centerline of the street and 50 feet from side and rear property lines, and shall have incorporated within them all appropriate noise abatement materials/measures. Adequate sanitation and off-street parking shall be provided; all pertinent local and state licenses and permits shall be obtained and all related regulations shall be adhered to.

**7.7 Light Industry.**

Light industry may be permitted provided that each is located on a lot of no less than ten (10) acres and has contiguous frontage of at least 500 feet on a highway Class V or better and meets all general requirements for a special exception and the Planning Board site plan review requirements including, but not limited to parking and buffering requirements.

**7.8 Hotels, Motels or Inns (new construction).**

Hotels, motels and inns must be located on a minimum of 10 acres plus one-half (1/2) acre for each sleeping unit more than four (4), and have no less than 500 feet contiguous frontage on a highway Class V or better. Each structure shall be set back at least 150 feet from the road. Buildings must be separated by sufficient space for fire safety purposes and in no case shall any building be less than 50 feet from any other building. Facilities shall have adequate water supply available for fire protection purposes as determined by the Francestown fire chief. One off-street parking space must be provided for each sleeping unit, plus parking adequate for the requirements of employees; parking areas shall be appropriately landscaped to provide a screen or buffer. Site plan review approval must be obtained from the Planning Board.

**7.9 Hotels, Motels or Inns (conversion of existing buildings).**

Existing buildings may be converted for use as hotel, motel or inn provided that the exterior appearance of the building shall not be substantially altered and such building shall be located on a minimum of 10 acres and have contiguous frontage of no less than 500 feet. At least one off-street parking space must be provided for each sleeping unit plus parking adequate for the requirements of employees. Water and sewage disposal facilities must meet the standards required for new construction. Site plan review approval must be obtained from the Planning Board.

**7.10.1 Restaurants ( new construction).**

A restaurant may be permitted on a lot of three acres or more with contiguous frontage of at least 300 feet. Buildings and parking areas shall be setback at least 100 feet from the center line of public roads and 75 feet from side and rear property lines. In addition to a provision for handicap parking, adequate off-street parking shall be provided in a discreet area(s) located away from the street and appropriately landscaped to maintain the character of the area. So called drive-up/drive-through, fast food eating establishments or operations offering drive-up/drive-through services shall not be permitted.

**7.10.2 Restaurants ( interior alterations).**

An existing building may be altered for use as a restaurant. The exterior appearance of the building shall be essentially unchanged. In addition to a provision for handicap parking,

adequate off-street parking shall be provided in a discreet area(s), away from the street, appropriately landscaped to maintain the character of the area. Buildings and parking areas shall be set back at least 75 feet from side property lines. Water and sewage disposal facilities must meet the standards required for new construction. So called drive-up/drive-through, fast food eating establishments or operations offering drive-up/drive-through services shall not be permitted.

**7.10.3 Convenience Stores.**

General or convenience stores in existence on January 1, 1998 may be allowed to utilize up to 30% of their operating space for the preparation and/or sale of deli and other take-out foods provided that water and sewage disposal facilities are adequate for the intended use. No additional provision for parking is required. New convenience/general stores which include areas for the preparation and/or sale of take-out foods may be permitted under Section 7.12.

**7.11 Rest/Convalescent Homes** and other skilled nursing facilities may be permitted provided that the scale, necessary infrastructure and layout of the facility are appropriate for the proposed lot. In addition to a provision for handicap parking, adequate off-street parking for residents, employees and guests shall be provided in a discreet area(s) appropriately landscaped to maintain the character of the area.

**7.12 Retail Stores, Offices and Businesses.**

Retail sales and service businesses and business and professional offices may be established by special exception provided that they are designed to meet the needs of the district and are in scale with the existing land uses in the district. No outside storage or display of equipment or merchandise shall be permitted. Adequate off-street parking shall be provided. Site plan review approval must be obtained from the Planning Board.

**7.13 Commercial Recreation Facilities** may be permitted on lots of 3 acres or more, provided that the nature, scale and layout of the facility are appropriate for the proposed lot. Adequate off-street parking shall be provided in a discreet area(s), away from the street, appropriately landscaped to maintain the character of the area.

**7.14 Camps.**

Establishments designed for youth and family group activities may be permitted provided that the nature, scale and layout of, and adequate facilities for, the operation are appropriate for the proposed lot. Such camps shall not provide for recreational vehicles, trailers, motor homes or individual tenting sites.

**7.15 Private Landing Areas and/or Strips.**

Except as noted in Section 3.13 the landing/takeoff of all flight vehicles is governed by the following specific conditions:

- (a) The landing/takeoff area is to be used solely by the property owner or resident tenant of the property. The housing of and/or rallies for non-resident planes are not permitted, provided, however, that occasional houseguests arriving by plane for short visits is allowed.
- (b) For fixed wing aircraft, the runway thresholds shall be set back a minimum of 500 feet from any property line; lateral setbacks shall be a minimum of 300 feet. Helipads shall be set back a minimum of 750 feet from all property lines.

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- (c) The length of a runway shall be at least the minimum specified by the manufacturer of the specific aircraft to be utilized.
- (d) Landing areas shall be registered with state and federal regulatory authorities and operations shall conform with all applicable state and federal regulations.
- (e) All aircraft shall be licensed. Failure of the property owner to maintain proof of the aircraft license on file with the Selectmen at all times shall be grounds for rescission of the special exception.
- (f) Hours of operation shall be sunrise to sunset. Night lighting is not permitted.

### **7.16 Auto Service Stations.**

Auto service stations may be permitted on a lot of 4 acres or more provided that contiguous frontage shall be at least 400 feet. All structures, including gasoline pumps, shall be set back a minimum of 75 feet from the center line as well as from side and rear property lines. The applicant shall demonstrate that the use shall not present any environmental hazard and that the site is in compliance with all applicable laws and regulations. The site shall be appropriately landscaped to maintain the character of the area and there shall be no outside storage or display of merchandise, parts, unregistered vehicles or equipment.

### **7.17 Sawmills.**

Sawmills may be permitted on lots of 20 acres or more provided that all structures shall be set back a minimum of 200 feet from the center line of all public streets as well as from side and rear property lines. All outside storage areas shall be set back a minimum of 100 feet from the center line of all public streets as well as from side and rear property lines and shall be landscaped, or otherwise camouflaged, so as not to be visible from the property line(s). All reasonable noise abatement measures shall be taken.

**7.18 Solar and Wind Powered Devices** for commercial use may be permitted on lots of 3 acres or more at an elevation of less than 1,000 feet.

### **7.19 Wireless Communications Facilities.**

Any new wireless communication facility shall be co-located with unmodified, existing facilities unless the applicant can demonstrate that such co-location is not feasible. In the latter case the applicant shall demonstrate that, of all possible reasonable alternatives - including modification of an existing wireless facility - the proposed design, configuration(s) and height(s) of equipment and site(s) will best preserve the town's natural beauty, rural characteristics, scenic vistas, and architectural history.

Except when co-use of an existing wireless structure, or modification of that structure, is determined to be the lowest impact alternative, no new facilities will be permitted on Crotched Mountain on land higher than 1,300 feet in elevation. No facility shall be so high as to require lighting.

Wireless facilities are subject not only to the above provisions but also, depending upon the type of facility, to the provisions in either 7.19.1 or 7.19.2, below.

**7.19.1 Personal Wireless Service Facilities.**

Facilities for commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services may be permitted provided the following conditions are met:

- (a) The applicant must demonstrate that every reasonable effort has been made to cause the facility to have the least possible visual impact on the overall community - including a demonstration of realistic analysis of design considerations, single/multiple site(s) and the need for the proposed height of the facility.
- (b) Unless connecting to existing facilities/structures, applicants shall design their facility to accommodate multiple providers of personal wireless services and shall agree to make such facilities reasonably available to such provider(s) - provided, however, that applicants may request a waiver of this requirement. To grant the waiver, the Zoning Board of Adjustment must find that the location and aesthetic appeal of the exclusive facility, and the consequences of allowing such a facility - including, but not limited to the impact on all other potential users, who might otherwise co-locate - are in the best interests of the town.
- (c) Structures not entirely located within an existing facility or not utilizing existing public utility poles, must meet the following setbacks: the greater of 50 feet or 150% of the height of the structure from any existing building on an abutting lot or from side and rear property lines and the greater of 100 feet or 150% of the height of the structure from the center line of the road.

In its evaluation of any proposal, the Zoning Board of Adjustment may, when subdivision approval is required, relax dimensional requirements for lot size, buildable acreage and frontage if the facility is unstaffed and does not otherwise require a septic system - on the conditions that: (i) the site not be used for any other purpose while occupied by a personal wireless service facility; (ii) the site is to be leased, not sold, and will revert to the original owner if the facility ceases operation for the period of one year.

**7.19.2 Other Wireless Communication Facilities.**

Other wireless communication facilities may be permitted on lots of 3 acres or more at an elevation of less than 1,000 feet. All structures shall be effectively camouflaged, enclosed within an existing facility or otherwise concealed in such a way to avoid a negative visual impact. Structures shall meet the same setback requirements set forth in Section 7.19.1.

**ARTICLE VIII DEFINITIONS**

**Abutter** - Any person whose property adjoins or is directly across the street or stream from the land under consideration.

**Accessory Building or Use** - A subordinate building or use incidental to and on the same lot occupied by the main building or use.

**Accessory Dwelling Unit** - A dwelling unit which is: a) incidental and subordinate to a single family residence; b) under the same ownership as the primary residence; c) within or attached to the primary residence; d) occupied by no more than 2 individuals; and e) no larger than 30%

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of the floor area of the principal residence. Only one accessory dwelling unit is allowed on a single lot.

**Agricultural Land** - Land used for agricultural purposes as defined in RSA 21:34-a or designated as prime agricultural soil on the soils map of the Town based on maps prepared by the Hillsborough County Conservation District.

**Auto Service Station** - An area of land, including structures thereon, that is used for the supply of gasoline, oil or other fuel for the propulsion of motor vehicles and which may include facilities for polishing, greasing, washing, spraying, dry cleaning, mechanical repairs or otherwise cleaning and servicing such motor vehicles. A service station is not a motor vehicles sales, truck stop or body repair facility.

**Bed and Breakfast** - Sleeping accommodations and breakfast offered in a private dwelling provided that no more than three (3) sleeping rooms are available for occupancy, that only breakfast meals are offered, that adequate parking is provided on the premises, and that water and sewage disposal systems are adequate to accommodate the added load.

**Bogs** - Bogs consist of peat or muck deposits of significant depths and are characterized by a distinct group of trees and plants which are adapted to the bog's highly acidic conditions. The water in a bog is practically devoid of oxygen and nutrients. Bogs usually develop in undrained glacial depressions. Typical plants are:

Atlantic White Cedar	Pale Laurel
Black Spruce	Pitcher-plants
Bladder Worts	Rhodora
Bogbean or Buckbean	Sedges
Bog-laurel	Sheep Laurel
Bog-rosemary	Sphagnum Moss
Cotton Grass	Sundews
High-bush Blueberry	Sweet Gale
Leatherleaf	

**Buffer** - A strip of land at least ten (10) feet wide, densely planted or having equivalent natural growth) with shrubs or trees at least four (4) feet high at the time of planting of a type that will form a year-round dense screen at least six (6) feet high within three (3) years.

**Building** - Any combination of materials, whether portable, movable or fixed, for the shelter of persons, animals or property.

**Church** - A facility for worship.

**Commercial** - A use primarily concerned with the making of profit from the sale of goods or services.

**Common Driveway** - A common way servicing not more than two single family dwelling units on adjoining lots, each of which has frontage capable of providing separate access.

**Condominium** - Those uses and structures lawfully submitted and recorded under the provisions in New Hampshire RSA 356B. Condominiums shall be considered a subdivision of land.

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**Day Care Center** - A center, home, day nursery, nursery school, kindergarten or other place however styled in which children are received for temporary custodial care apart from parents or guardians.

**Direct Light** - Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a fixture.

**Driveway** - A private way servicing no more than two single family dwelling units or one two family dwelling unit.

**Dwelling Unit** - Room or rooms constituting an independent housekeeping establishment and containing cooking, sleeping and sanitary facilities.

**Family** - One or more persons living as a single housekeeping unit.

**Farm** - The word "farm" means any land, buildings, or structures on or in which agriculture and farming activities are carried out or conducted and shall include the residence or residences of owners, occupants, or employees located on such land. Structures shall include all farm outbuildings used in the care of livestock, and in the production and storage of fruit, vegetables, or nursery stock; in the production of maple syrup; greenhouses for the production of annual or perennial plants; and any other structures used in operations, other than fur ranching, as described in RSA 21:34-a.

**Farm Roadside Stand** - Agricultural, not commercial, operation selling agricultural products as provided in Section 3.16 of the Zoning Ordinance.

**Fixture** - The assembly that houses a lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

**Flood or Spot Light** - Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

**Floodway** - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**Forestry** - The science of developing, caring for or cultivating and managing growing trees.

**Frontage** - The width of a lot measured along the line of a Class V Town road, a State highway, other than limited access highways, or a private road within a subdivision approved by the Planning Board and recorded in the Hillsborough County Registry of Deeds. For the purposes of development, adequate frontage includes legal access to the property sufficient to support development

**Fully-Shielded Lights** - outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test report.

**Glare** - Light emitting from a fixture with an intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness.

**Grandfathered Lighting System** - Lighting systems not conforming to the ordinance that were in place at the time the ordinance was voted into effect.

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**Greenhouse or Plant Nursery** - An area of land, including structures thereon that may be enclosed by glass, plastic or other material used for the cultivation and protection of plants and flowers.

**High Intensity Soils (HIS) Map** - A soils map of a parcel of land being considered for development on a perimeter survey, with a scale of 1 inch = 100 feet, where soils are mapped and identified in accordance with the high intensity soils mapping standards as defined by the Society of Soil Scientists of Northern New England's "High Intensity Soils Maps for New Hampshire, Standards and Origins", Publication No. 1 and as amended, or with HIS mapping standards as may be adopted by the State of NH.

**Hotel** - A building or buildings containing lodging units consisting of a room or suite of rooms offered as sleeping accommodations for transient guests for compensation.

**Impact Fee** - a fee or assessment imposed upon development, including subdivision, building construction or other land-use change, in order to help meet the needs occasioned by the development for the construction or improvement of capital facilities owned or operated by the municipality, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public libraries; and public recreation facilities, not including public open space.

**Indirect Light** - Direct light that has been reflected or has scattered off of other surfaces.

**Inn** - A single structure offering accommodations such a lodging and/or food for not more than twenty (20) transient guests for compensation.

**Light Industry** - A use involving the manufacture, assembly, packaging, finishing or treating of products not requiring heavy, noisy or otherwise objectionable machinery or transporting equipment. Such use must not be obnoxious, offensive or injurious to the public health and safety of the community or the neighborhood, or cause disturbance or annoyance because of vibration, noise, smoke, fumes, odor, dust, gas fumes, chemicals, radiation or other waste materials, or cause danger of fire or explosion, or result in diminution of property values in the neighborhood.

**Light Trespass** - The shining of light produced by a fixture beyond the boundaries of the property on which it is located.

**Lot** - Land occupied or designed to be occupied by a building(s) or use or accessory building(s) or uses incidental thereto. LOT lots which were assessed as individual lots on April 1, 1999 and lots in an approved subdivision.

**Manufactured Housing** - Any structure, transportable in one or more sections which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical systems contained therein.

**Marshes** - Marshes are treeless wetlands dominated by soft-stemmed herbaceous plants. The surface of the marsh is covered with water year round, though seasonal fluctuations in water

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depth are expected. Marshes range from the wet meadows variety to deep marshes which can be covered with several feet of water. The vegetational community is made up of some or all of the following:

Arums	Leatherleaf
Bladderworts	Pickerel Weeds
Bur-reeds	Rushes
Cattails	Sedges, including Bulrushes
Duckweeds	Cotton-grasses & Wool-grasses
Eelgrass	Smartweeds
Frog's-bits	Sweet Gale
Horsetails	Water-lilies
Hydrophylus Grasses	Water Milfoil

**Motel** - A building or buildings containing lodging units consisting of a room or suite of rooms, each with separate entrance and its own toilet facilities, offered as sleeping accommodations for transient guests for compensation.

**Multi-Family Dwelling** - A building containing 3 or more attached dwelling units.

**Natural Ground Cover** - means any herbaceous plant or any woody seedling or shrub generally less than 3 feet in height. Natural ground cover shall also include naturally occurring leaf or needle litter, stumps, decaying woody debris, stones, and boulders. Natural ground cover shall not include lawns, invasive species, exotic species, imported organic or stone mulches, or other artificial materials.

**Non-Conforming Structure, Use or Lot** - A structure or lot or the use of any land, building or structure, which does not conform to the regulations of the zoning district in which it is located or carried on as of the date this ordinance becomes effective.

**Office** - A room or group of rooms used for conducting the affairs of a business, profession or service.

**Parking Space** - An off-street space available for the parking of one motor vehicle, containing at least 300 square feet including maneuvering space, not within the right of way.

**Personal Service Business** - A business providing service of a personal nature, including but not limited to barber shops, beauty salons, shoe repair shops, laundromats, photographic studios, etc. or contractual services, including but not limited to general contractors, building contractors, carpenters, plumbing and heating contractors, electrical contractors, roofing contractors, masonry contractors, etc.

**Poorly and Very Poorly Drained Soils** - Soil types with characteristics, defined by soil scientists, which severely restrict land use and development potential. While HIS standards are the definitive authority for what constitutes poorly and very poorly drained soils, this Ordinance also allows for the use of the soil delineations as described by the USDA Soil Conservation Service's "Soil Survey of Hillsborough County - Western Part", 1985, and as amended, when more accurate designation, as determined by a local land use board, is not critical to determining the appropriateness of a proposed use. Soil types commonly associated with wetlands located within the Town of Francestown as described by the USDA Soil Conservation are as follows:

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Map Symbol	Name
15	Searsport muck
105	Rumney Loam
197	Borohemists, ponded
214A	Naumberg Loam
246B	Lyme Loam
247B	Lyme Stony Loam
295	Greenwood Mucky Peat
395	Chocorua Mucky Peat
495	Ossipee Peat
549	Peacham Stoney Muck
646B	Pillsbury Loam
647B	Pillsbury Stony Loam

**Recreation Facilities** - Outdoor or indoor facilities designed for sports, recreation and fitness limited to swimming, court sports, working out, cross country skiing, alpine skiing, skating and golf.

**Recreational Vehicle** - A trailer or self-propelled vehicle designed for short-term or camping occupancy.

**Rest/Convalescent Home** - A building housing no more than 51 aged or infirm persons for compensation, and licensed by the State of New Hampshire.

**Restaurant** - A building used for the preparation and service of food to the general public for consumption on the premises and also, but not exclusively, for the sale of food for take-out, provided, however, that all customers shall enter the premises on foot to receive and pay for food and services.

**Retail Business** - A business which involves the sale to the general public of merchandise, such as a grocery store, drug store, gift shop, hardware store, sporting equipment rental and retail shop, recreation information and instruction business and antique shop.

**Right-Of-Way** - A strip of land occupied or intended to be occupied by a street, walkway, railroad, utility lines or other similar special uses.

**Sand and Gravel Excavations** - See New Hampshire Revised Statutes Annotated 155-E.

**Sawmill** - An area of land, including structures, machinery and equipment thereon, which is used for the sawing of logs.

**School** - An institution for the education of persons which is properly licensed or accredited by the State of New Hampshire Department of Education.

**Sedimentation and Erosion Control Plan** - A plan adhering to the principles, methods and minimum standards found in the "Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire", 1981 and as amended, which shall result in a development that: a) minimizes erosion and sedimentation during construction; b) is stabilized and protected from erosion when completed, and c) does not cause off-site erosion and/or sedimentation.

**Sleeping Unit** - A room or space designed to accommodate one or two persons overnight.

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**Special Exception** - A use that would not be appropriate generally or without conditions but which, if controlled as to number, area, location, design or relation to the neighborhood, would not be detrimental to the public health, safety, order, comfort, convenience, appearance, prosperity or general welfare.

**Stables and Riding Academies** - An area of land, including structures thereon, that is used for the shelter, care and feeding of domestic animals and which may include the teaching of skills relating to such animals and/or the hiring out of horses for unsupervised ring or trail riding.

**Street** - Any public or private way, except a driveway or common driveway.

**Structure** - Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Structures include, but are not limited to, buildings, walls, manufactured homes, fences and signs.

**Swamps** - Swamps are areas where the water table is at or near the ground surface for a significant part of the year. The vegetational community consists mostly of trees and woody shrubs, such as:

Alders	Buttonbush	Rhodora	Winterberry
Arrow-wood	Common Elder	Sphagnum Moss	
Atlantic White Cedar	High-bush Blueberry	Spicebush	
Black Ash	Marsh Rose	Sweet Pepperbush	
Black Gum	Poison Sumac	Tamarack(Larch)	
Black Spruce	Red Maple	Willows	

**Two-Family Dwelling** - A principal structure containing two dwelling units, neither of which is an accessory dwelling unit.

**Vernal Pool** - Any temporary body of water, commonly known as a vernal pool, which supports obligate species including, but not limited to fairy shrimp, mole salamanders, and wood frogs as determined by a Wetlands Scientist licensed by the State of New Hampshire.

**Water Frontage** - The width of a lot measured along a lake or a pond at the mean high water level, such frontage, if any, being in addition to the required street frontage.

**Wetlands** - Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions – including, but not limited to bogs, swamps, and marshes - as determined by a Wetlands Scientist licensed by the State of New Hampshire.

**Wireless Communications Facilities** - Any antenna, tower, pole and other associated devices, equipment, or facilities used for the transmission or reception of radio, television, microwave, or any other electromagnetic spectrum-based signals for commercial communications purposes. These include, but are not limited to, radio broadcast facilities, television stations, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communication (SMR) services, personal communications services (PCS) and common carrier wireless exchange access services. Wireless communications facilities are not considered essential services or public utilities, as defined or used elsewhere in the Town’s ordinances and regulations.

**ARTICLE IX ADMINISTRATION, ENFORCEMENT AND PENALTIES**

**9.1 The Board of Selectmen shall enforce** the provisions of the Ordinance. Upon well-founded information or belief that any building or structure has been or is being erected, constructed, reconstructed, altered, repaired, converted or maintained, or any buildings, structure or land has been or is being used in violation of this or any other ordinance or regulation of the Town of Francestown, the Board of Selectmen, in addition to any other remedies which may be available, may institute any appropriate action or proceedings to prevent such unlawful action, to restrain, correct or abate any violations, to prevent the occupancy of the building, structure or land, or any illegal act or use in or about such premises.

**9.2 Any violation** as set forth above is punishable by a fine not to exceed the maximum permitted by statute for each day that such violation continues after the conviction date.

**ARTICLE X BOARD OF ADJUSTMENT**

**10.1 Creation.** The Board of Selectmen shall appoint a Board of Adjustment conforming in membership and duties to the provisions of Chapter 673, New Hampshire Revised Statutes Annotated, 1955 and any amendments thereto.

**10.2 General Procedures of the Board of Adjustment on Special Exceptions.**

**10.2.1 The Board of Adjustment** may, in appropriate cases and subject to appropriate conditions and safeguards, grant permits for uses permitted as special exceptions as set forth in Article VII of this Ordinance.

**10.2.2 In acting on applications** for special exceptions, the Board shall take into account the general purpose and intent of this Ordinance to preserve community values and may impose conditions and safeguards in addition to those specified in this Ordinance if the use or site warrant. The Board of Adjustment may consult with the Planning Board before acting on any application for Special Exception but shall not be bound by advice of the Planning Board.

**10.2.3 Duplicate plans** for the proposed development of a site for a special exception shall be submitted with application for a permit. Such plans shall show the location of all buildings, parking area, traffic access and other pertinent information that may be necessary to determine whether the proposed use meets the spirit and intent of this Ordinance and of the Site Plan Review requirements of the Planning Board.

**10.2.4 In cases where both** Planning Board and Board of Adjustment approval is required, the applicant may request that both boards meet together to review the application in order to expedite the application process and avoid any conflicting requirements. The Planning Board and the Board of Adjustment shall adopt rules governing the procedure in such joint meetings consistent with the requirements of RSA Chapter 676.

**10.2.5 A permit for a special exception shall expire** when such use shall not begin or shall cease for one year.

**10.3 Variances.**

**10.3.1 The Board of Adjustment** may authorize a variance from the terms of the Ordinance only where the Board finds that all of the conditions defined in RSA 674:33 I(b) (formerly 31:72) are met.

- (a) That if the variance is granted, no diminution in the value of the surrounding properties will be suffered;
- (b) That the granting of the variance would be of benefit to the public interest;
- (c) That denial of the variance would result in unnecessary hardship to the property owner seeking it;
- (d) By granting the variance substantial justice will be done;
- (e) That the proposed use will not be contrary to the spirit of the Ordinance.

**10.3.2 In considering whether a variance shall be granted,** financial hardship, particularly financial hardship caused by actions of the applicant, is insufficient. The applicant must prove that there are special circumstances or conditions applying to the lot or structure, not caused by the applicant (such as but not limited to, exceptional narrowness, shallowness or shape of the lot or structure in question, or exceptional topographical conditions, which are peculiar to such lot or structure, and the strict application of the requirements of the Ordinance will deprive the applicant of a reasonable use of it, and will impose upon such applicant a hardship not shared by owners of other lots or structures in the same district.

**ARTICLE XI AMENDMENTS**

This Ordinance may be as amended as provided by statute.

**ARTICLE XII SAVING CLAUSE**

If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or otherwise invalid, such decision shall not affect the remaining portions of this Ordinance.

**ARTICLE XIII EFFECTIVE DATE**

This ordinance shall take effect immediately upon its passage.

**TABLE 1: DIMENSIONAL CONTROLS (PAGE 1 OF 2)**

	<u>Village District</u>	<u>Rural District</u>
<b>Acreage Requirements</b> <sup>1</sup> (except as provided in the subdivision regulations)		
Minimum Lot Size	3 Acres	3 acres
Open Space Development <sup>2</sup>	See Article 5	See Article 5
Single-Family Backland Lot (Article 3.2)	10 Acres	10 Acres
Two-Family Dwelling Lot	4 Acres	4 Acres
Multi-Family Dwelling Lot	See Articles 7.1 and 7.3	See Articles 7.1 and 7.3
Non-Residential Special Exception Uses	See Article 7	See Article 7
<b>Minimum Front Setbacks</b> <sup>3</sup> (from centerline of street)		
Buildings on backland lots	400 feet	400 feet
Article 3.10(a) structures	100 feet	100 feet
Special Exception structures	See Article 7	See Article 7
Structures in Open Space Developments	See Article 5	See Article 5
<b>Minimum Side/Rear Setbacks</b> (from lot line)		
Article 3.10(b) structures on backland lots	50 feet	50 feet
Article 3.10(b) structures	50 feet	50 feet
Special Exception structures	See Article 7	See Article 7
Structures in Open Space Developments	See Article 5	See Article 5

<sup>1</sup> In addition to gross acreage requirements, no building lot – except as provided in Section 7.19.1 and in Article 5 – shall have less than two (2) acres of buildable land excluding wetlands and slopes over 25% as defined in the conservation overlay districts. Some uses require more than 2 buildable acres as provided in Section 7.

<sup>2</sup> No minimum lot size is required for Open Space Development provided that the balance of acreage required for conventional development is held in open space according to terms set forth in Article 5.

<sup>3</sup> Also see Section 3.10 and Section 7.

**TABLE 1: DIMENSIONAL CONTROLS (PAGE 2 OF 2)**

	<u>Village District</u>	<u>Rural District</u>
<b>Minimum Setback: Septic Systems</b>		
From Streams or Ponds	125 feet	125 feet
From Wetlands	100 feet	100 feet
<b>Other Minimum Setbacks</b>		
Structures/Roads/Driveways from Ponds, Streams, Wetlands and Vernal Pools	See Articles 2-A.2 and Article 2-A.6	See Articles 2-A.2 and Article 2-A.6
<b>Contiguous Water (Pond) Frontage</b>		
Minimum Lot	200 feet	200 feet
Multi-rights lot	See Article 2-A.6	See Article 2-A.6
<b>Minimum Contiguous Road Frontage</b>		
Minimum lot	300 feet	300 feet
Open Space Development	See Article 5	See Article 5
Single-Family Backland Lot	50 feet	50 feet
Two-Family Lot	300 feet	300 feet
Multi-Family Lot	See Articles 7.2.2 and 7.3	See Articles 7.2.2 and 7.3
Non-residential Special Exception Lots	See Article 7	See Article 7
<b>Height<sup>4</sup></b>	35 feet	35 feet

<sup>4</sup> See Article 3.6 for exceptions.

Franeestown Zoning Ordinance

**TABLE 2: PERMITTED USES AND SPECIAL EXCEPTIONS <sup>1</sup> (page 1 of 2)**

P= Permitted Use

PS= Permitted subject to performance standards as Specified in the applicable section of the Ordinance

E = Permitted by Special Exception

N = Not Permitted

\*= See Article 2-A

<u>Use</u>	<u>Underlying District</u>		<u>Conservation Overlay District</u>					
	Village	Rural	Steep Slope 15-25%	Steep Slope >25%	Wetland	Shore-land	Aquifer	Flood Plain <sup>2</sup>
Accessory Building or Use								
Accessory Dwelling Unit								
Lots of 3 acres or more	PS	PS	PS	N	N	N	PS	PS
Lots of < 3 acres	E	E	E	N	N	N	E	E
Dwelling Unit in Detached Building	N	N	N	N	N	N	N	N
Other Accessory Buildings	P	P	PS	N	N	PS	P	PS
Agriculture (excluding fur ranching)	P	P	PS	PS	PS	PS	PS	PS
Aircraft Landing Areas	N	E	N/E	N/N	N/N	N/N	N/E	N/E
Animal Care Facilities	N	E	N/E	N/N	N/N	N/N	N/E	N/E
Auto Service Station	E	E	E	N	N	N	N	N
Bed & Breakfast	E	E	E	N	N	N	E	E
Children's or Family Camps	E	E	E	N	N	N	N	E
Churches/Schools/Day Care Centers	P	P	PS	N	N	N	N	PS
Commercial Recreational Facilities	N	E	N/E	N/*	N/N	N/N	N/E	N/E
Farm Roadside Stands	P	P	P	N	N	PS	P	PS
Forestry	P	P	PS	PS	PS	PS	P	PS
Home Business (Section 3.9.1, 3.9.2 uses)	PS	PS	PS	N	N	PS	PS	PS
Hotel, Motel, Inn								
New Construction	N	E	N/E	N/N	N/N	N/N	N/N	N/E
Interior Alteration	E	E	E	N	N	N	N	E
Light Industry	N	E	N/E	N/N	N/N	N/N	N/*	N/PS
Manufactured Housing (See Article VI)	N	PS	N/PS	N/N	N/N	N/PS	N/PS	N/PS

<sup>1</sup> When the underlying districts have different designations, two designations, separated by a slash are provided in the overlay district section of the table; the first designation applies to the Village District, the second to the Rural District.

<sup>2</sup> Any Use in the Flood Plain District requires a permit from the Building Inspector. See Section 2-A.4 and FLOOD HAZARD BUILDING CODE. Uses other than single family and two family residences may require Site Plan approval by the Planning Board. Please consult the Site Plan Regulations.

Franeestown Zoning Ordinance

**TABLE 2: PERMITTED USES AND SPECIAL EXCEPTIONS <sup>1</sup> (page 2 of 2)**

P= Permitted Use

PS= Permitted subject to performance standards as Specified in the applicable section of the Ordinance

E = Permitted by Special Exception

N = Not Permitted

\*= See Article 2-A

Use	Underlying District		Conservation Overlay District					
	Village	Rural	Steep Slope 15-25%	Steep Slope >25%	Wetland	Shore-land	Aquifer	Flood Plain <sup>2</sup>
Multi-Family Housing								
New Construction	E	E	E	N	N	N	N	E
Conversions	E	E	E	N	N	N	N	E
Open Space Development								
Single Family Residential	PS	PS	PS	N	N	PS	PS	PS
All Other Uses	E	E	E	N	N	E	E	E
Personal Service Businesses/Professional Offices and Agencies	E	E	E	N	N	N	N	E
Plant Nurseries/Florist Shops/Commercial Greenhouses	E	P	E/PS	*	*	*	*	E/PS
Restaurants								
New Construction	N	E	N/E	N/N	N/N	N/N	N/N	N/E
Interior Alterations	E	E	E	N	N	N	N	E
Rest/Convalescent Home	E	E	E	N	N	N	N	E
Retail Business	E	E	E	N	N	N	N	E
Sand & Gravel Excavations	N	E	E	N	N	N	E	E
Sawmills	N	E	N/E	N/N	N/N	N/N	N/E	N/E
Single Family Dwellings	P	P	PS	N	N	PS	P	PS
Solar or Wind Operated Devices	E	E	E	N	N	N	E	E
Stables & Riding Academies (Commercial)	N	P	N/PS	N/N	N/N	N/N	N/*	N/PS
Two-Family Dwellings								
New Construction	E	P	E/PS	N/N	N/N	N/N	E/P	E/PS
Article 3.12 Conversions	N	P	N/PS	N/N	N/N	N/N	N/P	N/PS
Article 7.2.2 Conversions	E	E	E	N/N	N/N	N/N	E	E
Wireless Communication Systems	N	E	N/E	N/N	N/N	N/N	N/E	N/E

**INSPECTOR OF BUILDINGS  
AND APPROVAL OF BUILDING PLANS**

**TOWN OF FRANCESTOWN, NEW HAMPSHIRE**

**INSPECTOR OF BUILDINGS AND APPROVAL OF BUILDING PLANS**

**I.** **The Selectmen shall appoint a Building Inspector** as authorized by New Hampshire RSA Chapter 673:I, III (formerly Chapter 156).

**II.** **No person shall erect or place a building** without first obtaining either a building permit or a zoning compliance permit from the Building Inspector. The Board of Selectmen shall establish such fees as they deem necessary to implement the permit process.

**III.** **BUILDING PERMITS**

**A.** **A building permit shall be required for any structure** in excess of two hundred (200) square feet, either permanent or temporary; to alter the use of an existing building and/or construct an external addition to any building in excess of one hundred (100) square feet in floor area; to install or improve any septic system; or to construct or install any swimming pool, athletic court, windmill, or any freestanding satellite dish, solar collector or communications antennae without first obtaining a building permit from the Building Inspector.

**B.** **A building permit shall be issued by the Building Inspector** provided that any structure or alteration conforms to all requirements of the Zoning Ordinance, Subdivision Regulations, Site Plan Review Regulations, Life-Safety Code and all other applicable ordinances and regulations. The Board of Selectmen shall have the authority to adopt such forms or standards specifying the minimum contents of a completed application for a building permit as may be prudent and necessary to implement the building permit program.

**C.** **No building permit shall be issued** until the Building Inspector is satisfied that the proposed construction is in conformance with all applicable town ordinances, that there is provision for adequate water supply and until he has received a certificate of approval from the New Hampshire Water Supply and Pollution Control Commission for the construction of adequate sewage disposal facilities.

**IV.** **ZONING COMPLIANCE PERMITS.** **A zoning compliance permit shall be required** for construction of a single-story building for non-residential use provided said building or structure does not exceed two hundred (200) square feet in area and conforms to all other requirements of applicable town ordinances, including but not limited to general lot-line setback requirements (see Table 1) and wetlands/shorelands district setback requirements (see Articles 2-A.2 and 2-A.6).

**V.** **If construction of the building** for which a building permit has been issued is not begun within one year from the date of issuance, said building permit shall expire.

**VI.** **CERTIFICATION OF CONFORMANCE.** When a building is completed, and before it may be occupied, the builder or owner shall certify, in a manner established by the building inspector, that the building conforms to any and all conditions of the building permit, including conformity with the ICC where required by town ordinance.

**VII.** **APPEALS.** Appeals from any ruling of the Building Inspector shall be heard by the Board of Adjustment. Appeals must be filed within a reasonable time, in accordance with rules and procedures established by the Board of Adjustment.

**FLOOD HAZARD BUILDING CODE**

## **FLOOD HAZARD BUILDING CODE ORDINANCE OF 1988**

The following Flood Hazard Building Code Ordinance is hereby adopted pursuant to RSA 674:16. The following regulations shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency in its “Flood Insurance Study for the County of Hillsborough, N.H.” dated September 25, 2009 or as amended, together with the associated Flood Insurance Rate Maps dated September 25, 2009 or as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference.

### **ITEM I. DEFINITION OF TERMS**

**Area of Special Flood Hazard** is the land in the flood plain within the Town of Francestown subject to a one percent or greater chance of flooding in any given year. The area is designated as Zones A or AE on the Flood Insurance Rate Map (FIRM).

**Base Flood** means the flood having a one percent chance of being equaled or exceeded in a given year.

**Basement** means any area of the building having its floor sub-grade (below ground level) on all sides.

**Building** – See “Structure”

**Breakaway Wall** means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation.

**Development** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**Flood or Flooding** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of inland or tidal waters
- (b) The unusual and rapid accumulation or runoff of surface waters from any source.

**Flood Elevation Study** means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevation, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

**Flood Insurance Rate Map** (FIRM) means an official map of a community on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community.

**Flood Insurance Study** – See “Flood Elevation Study”

**Flood Plain or Flood-Prone Area** means any land area susceptible to being inundated by water from any source (see definition of “Flooding”).

**Flood Proofing** means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real estate property, water and sanitary facilities, structures and their contents.

**Floodway** – See “Regulatory Floodway”

**Functional Dependent Use** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**Historic Structure** means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) by an approved state program as determined by the Secretary of the Interior, or
  - (2) directly by the Secretary of the Interior in states without approved programs.

**Highest Adjacent Grade** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of the structure.

**Lowest Floor** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render that structure in violation of the applicable non-elevation design requirements of this ordinance.

**Mean Sea Level** means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

**Manufactured Home** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for a period greater than 180 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.

**Manufactured Home Park or Subdivision** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**New Construction** means, for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the “Start of Construction” commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**100-Year Flood** – See “Base Flood”

**Recreational Vehicle** means a vehicle which is:

- (a) built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) designed to be self- propelled or permanently towable by a light-duty truck; and
- (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. (Effective 3/9/94)

**Regulatory Floodway** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**Riverine** means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Special Flood Hazard Area** -- See “Area of Special Flood Hazard”

**Start Of Construction** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installations of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installations on

the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

**Structure** means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**Substantial Damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent of the market value of the structure before the damage occurred.

**Substantial Improvement** means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should equal:

- (a) the appraised value prior to the start of the initial repair or improvement, or
- (b) in the case of damage, the value of the structure prior to the damage occurring.

For the purposes of this definition, *substantial improvement* is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures that have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

**Violation** means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44CFR § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

**Water Surface Elevation** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

**ITEM II. All proposed development** in any special flood hazard areas shall require a permit.

**ITEM III. The Building Inspector shall review all permit applications** for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall:

- (a) Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

- (b) Be constructed with materials resistant to flood damage;
- (c) Be constructed by methods and practices that minimize flood damage; and
- (d) Be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

**ITEM IV. Where new and replacement water and sewer systems (including on-site systems) are proposed in flood-prone areas,** the applicant shall provide the Building Inspector with assurance that new and replacement sanitary sewage systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

**ITEM V. The Building Inspector shall maintain** for public inspection, and furnish upon request, any certification of flood-proofing and the as built elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and include whether or not such structures contain a basement. If the structure has been flood-proofed, the as built elevation (in relation to mean sea level) to which the structure was flood-proofed shall be provided to the Building Inspector. This information must be furnished by the applicant.

**ITEM VI. The Building Inspector shall review proposed developments** to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C 1334. It shall be the responsibility of the applicant to certify these assurances to the Building Inspector.

**ITEM VII. In riverine situations,** prior to the alteration or relocation of a watercourse, the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Building Inspector, in addition to the copies required by RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Bureau.

Within the altered or relocated portion of any watercourse, the applicant shall submit to the Building Inspector certification provided by a registered professional engineer assuring that the flood carrying capacity of the watercourse has been maintained.

Along watercourses with a designated Regulatory Floodway, no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway unless it has been demonstrated through the hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge.

Until a Regulatory Floodway is designated along watercourses, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zone AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

The Building Inspector shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meets the following floodway requirement:

“No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge.”

**ITEM VIII.**

- (a) In special flood hazard areas the Building Inspector shall determine the 100-year flood elevation in the following order of precedence according to the data available.
  - (1) In Zone AE, refer to the elevation provided in the communities' Flood Insurance Study and accompanying FIRM.
  - (2) In unnumbered A zones the Building Inspector shall obtain, review, and reasonably utilize any 100 year flood elevation data available from Federal, State, or other sources, including development proposals submitted to the community (subdivisions, site developments, etc.).
- (b) The Building Inspector's 100 year flood elevation determination will be used as criteria for requiring in Zones AE and A that:
  - (1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the 100-year flood level;
  - (2) All new construction and substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100-year flood level; or together with attendant utility and sanitary facilities, shall:
    - (i) Be flood-proofed so that below the 100-year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
    - (ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
    - (iii) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.
  - (3) All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood level; and be securely anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

- (4) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted, providing the enclosed areas meet the following requirements:
  - (i) the enclosed area is unfinished or flood-resistant, usable solely for parking of vehicles, building access, or storage;
  - (ii) the area is not a basement;
  - (iii) the area shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings provided that they permit the automatic entry and exit of floodwaters.
- (c) Recreational vehicles placed on sites located in Zones AE and A shall either:
  - (1) be on the site fewer than 180 consecutive days;
  - (2) be fully licensed and ready for highway use; or
  - (3) meet all standards of Section 60.3 (B) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for “manufactured homes” in Paragraph (c) (6) of Section 60.3. (Effective 3/9/94)

**ITEM IX, VARIANCES AND APPEALS**

- (a) Any order, requirement, decision, or determination of the Building Inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as provided for in RSA 676:5.
- (b) .If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I(b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:
  - (1) that the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense;
  - (2) that if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result; and
  - (3) that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (c) The Zoning Board of Adjustment shall notify the applicant in writing that: (i) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 or \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to lives and property. Such notification shall be maintained with a record of all variance actions.
- (d) The community shall (i) maintain a record of all variance actions, including their justification for their issuance, and (ii) report such variances issued in its annual or biennial report submitted to FEMA’s Federal Insurance Administrator.

Fracestown Zoning Ordinance

This ordinance shall take effect upon passage and the Fracestown Building Code for Special Flood Hazard Area, of March 1975, is hereby repealed.

Adopted March 1988  
Amended March 1994  
Amended March 1997  
Amended March 2007  
Amended March 2008  
Amended August 3, 2009 by resolution of the BOS, re: FIRM

**VIII. ENFORCEMENT.** The Board of Selectmen shall enforce the provisions of this ordinance in accordance with the provisions established in RSA Chapter 676:15-17. Any violation is punishable by a fine not to exceed the maximum permitted by statute for each day that such violation continues after the conviction date.

**IX. SAVING CLAUSE.** If any article, section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or otherwise invalid, such decision shall not affect the remaining portions of this ordinance.

Adopted March 1985  
Amended March 1989  
Amended March 2005  
Amended March 2011  
Amended March 2014