

**TOWN OF GORHAM**  
**ZONING LOCAL LAW**

January 28, 2013  
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[History: Adopted by the Town Board of the Town of Gorham, February 21, 2001; Filed with Secretary of State on February 28, 2001) )Amended by LL3-2001 Zoning Map); Amended by Local Law #1 of 2003 filed by Secretary of State on 2/20/03; Amended by Local Law#1 of 2004 filed by Secretary of State 10/28/04. Amended by LL#4-2005, filed 12/29/05 (rezone portion of Lake to Lake/Dewey Ave). Amended by LL#1-2006 add Timber Harvesting effective 2/13/06) (Amended by LL#5-2006 Penalties, 9/6/07) (amended by LL#11-2006 effective 11/24/06). Amended by LL#3-2007 Wind Energy Facilities 9/17/07); Amended by LL#4-2007, (changes to LFO, HC and ID) filed 10/22/07); Amended by LL#1-2008 (Outdoor Wood Furnaces) filed 2/25/08; Amended by LL#3 of 2010 (Alternate Members of Zoning Board of Appeals and Planning Board) effective 12/30/2010. LL#2-2013 repealed former Chapter 31, replaced with new 3/13/2013. Amended by LL# 1 – 2017 adopted 2/9/2017 and filed with the Secretary of State on 3/14/2017.

CHAPTER 31

ZONING LOCAL LAW

TOWN OF GORHAM, NEW YORK

A Local Law regulating and restricting the height, number of stories, and size of buildings and other structures; their construction, alteration, extension, repair, maintenance and all facilities in or about such buildings and structures; the percentage of lot that may be occupied; the size, depth and width of yards and other open spaces; the density of population, and the location and use of buildings, structures, and land for trade, manufacturing, residence or other purposes; establishing districts and the boundaries for said purposes; providing for the appointment of a Board of Appeals and setting forth the duties and functions of said Board; and providing for the administration and enforcement of this Local Law and penalties for violation thereof in accordance with the Consolidated Laws of the State of New York.

**ARTICLE 1 - ENACTMENT AND INTENT****31.1.1 TITLE**

This Local Law shall be known and cited as the "Town of Gorham Zoning Local Law."

**31.1.2 GENERAL INTENT**

The intent of this Local Law is to establish comprehensive controls for the development of land in the Town of Gorham, based on the Comprehensive Plan for the Town and any subsequent amendments, and enacted in order to promote and protect health, safety, comfort, convenience and the general welfare of the people. The interpretation and the application of the provisions of this Local Law shall be held to be the minimum requirements for the promotion of the health, safety, morals and general welfare.

**31.1.3 PURPOSES**

Such regulations shall be made in accordance with the Comprehensive Plan and designed to lessen congestion in the streets, to secure safety from fires, flood, panic and provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of the public; to facilitate the provisions of transportation, water, sewage, schools, parks and other public requirements. Such regulations shall be made with reasonable consideration, among other things, as to the characteristics of the district and its peculiarities for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the township.

**31.1.4 CONFLICT WITH OTHER LAWS**

This local law is not intended to interfere with or abrogate or annul other rules, regulations, laws or ordinances, provided that where this Local Law imposes greater restrictions upon the use of buildings or premises, or upon the height or bulk of a building or requires larger open spaces, the provisions of this Local Law shall apply.

**31.1.5 SEVERABILITY**

If any section, subsection, sentence, clause or phrase of this Local Law or the location of any district boundary shown on the Zoning Map that forms a part hereof is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this Local Law or zoning map.

**31.1.6 EFFECTIVE DATE**

This Local Law shall take effect immediately upon adoption and filing with the Department of State as provided by the NYS Town Law and Municipal Home Rule Law.

**31.1.7 AMENDMENTS****A. Town Board May Amend**

The Town Board may from time to time on its own motion, or on petition, or on recommendation of the Planning Board or Zoning Board of Appeals, amend, supplement, or repeal the regulations and provisions of this Local Law, after public notice and hearing.

**B. Review By Town Planning Board**

Every such proposed amendment or change, whether initiated by the Town Board, Planning Board, Zoning Board of Appeals, or by petition, shall be referred to the Planning Board for report thereon before the public hearing and within 45 days after the date of referral by the Town Board. Such report by the Planning Board shall state whether each amendment or change proposed is in harmony with the town's most recently adopted Comprehensive Plan.

C. Public Notice and Hearing

The Town Board by resolution adopted shall fix the time and place of a public hearing on the proposed amendments and cause notice to be given as provided by Town Law or Municipal Home Rule Law.

D. Notification of Property Owners

1. For zoning map amendments initiated by petition, all property owners within a distance of 500 ft. of any proposed change or amendment shall be notified by regular first-class mail. The cost of such notification shall be paid by the petitioner.
2. The applicant shall place one (1) sign on the property for which a rezoning is requested. Said sign shall be provided by the Zoning Officer. The sign shall be placed in a location which is easily read from a public street. The sign shall specify the date, time and place of the public hearing and a telephone number to call for more specific information. Such sign shall be placed on the site not less than ten (10) days prior to the public hearing and shall be brought to the hearing by the applicant or his designated representative.

## **ARTICLE 2 - INTERPRETATIONS AND DEFINITIONS**

### **31.2.1 INTERPRETATIONS**

Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of the Local Law. Words used in the present tense include the future; the singular number shall include the plural, the plural the singular; the word "structure" shall include the word "building", the word "used" shall include "arranged", "designed", "constructed", "altered", "converted", "rented", "leased", or "intended to be used"; and the word "shall" is mandatory and not optional.

### **31.2.2 DEFINITIONS**

**ACCESS MANAGEMENT** – Controlling the location, spacing, and geometry of curb cuts (driveway intersections with public road right-of-ways) with the goal of maintaining traffic safety while preserving existing speed limits on public streets and roads.

**ACCESS MANAGEMENT LOCAL LAW** – The Access Management Local Law as adopted and amended by the Town of Gorham.

**ACCESS MANAGEMENT MAP** – The map included in the Access Management Local Law.

**ACCESS, NON CONFORMING (OR NON CONFORMING ACCESS)** – Access to a property or property that is not in compliance with the Access Management Local Law of the Town of Gorham. This shall include access, proposed roads, or lack thereof that do not comply with the Access Management Map adopted as part of the Access Management Local Law.

**ACCESSORY USE OR STRUCTURE** – A use or structure subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the use of the principal building.

**AGRICULTURAL USE** – See "Farm Use."

**AIRPORT** – A facility for the landing and takeoff of aircraft, together with servicing facilities including service to patrons, from which revenue is derived.

**AIRPORT, PRIVATE** – A facility for the landing, takeoff and tie-down of private aircraft weighing not more than 12,500 pounds (maximum gross weight), from which no flight instruction, charter, or rental service is given and from which no revenue is derived; except that the use of the facility as a temporary base of operations for sprayer and duster aircraft is permitted.

**ALTERATIONS** – As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

**ALTERATIONS, STRUCTURAL** – Any change in the supporting members of a building such as bearing walls, columns, beams, or girders.

**ANIMAL HOSPITAL OR VETERINARY CLINIC** – The premises or buildings used for the diagnosis, treatment or other care of the ailments of domesticated, household or farm animals, which may include related facilities, such as laboratories, offices and temporary quarters for such animals.

**ANIMAL HUSBANDRY** – The raising or keeping of one (1) or more cows, cattle, horses, mules, hogs, sheep, goats, donkeys, oxen, or other similar animals, or the raising or keeping of more than four (4) ducks, rabbits, geese, quail, chinchillas, mink or any similar small animals, but not including dogs and cats. Such uses include the pasturing, feeding, and sheltering of such animals. The keeping of up to twelve (12) female chickens kept for the purpose of egg laying shall not be deemed an Animal Husbandry Use (see definition of ‘Residential Egg Laying’ herein)

Animal Husbandry, Commercial – Animal husbandry on a farm and incidental to a farm use or as a stand-alone commercial enterprise.

Animal Husbandry, Private – Animal husbandry, as defined above, for personal use of the property owner, not for any commercial enterprise, and as an accessory to the principal use of the property.

**ANIMAL UNIT** – The equivalent of 1000 pounds of farm animal.

**ANTENNA(E)** - A system of electrical conductors that transmit or receive electronic frequency signals. Such signals shall include, but not be limited to radio, television, cellular, paging, and personal communication services (PCS).

**APARTMENT** – See Dwelling, Multiple family.

**AUTOMOBILE OR TRAILER SALES AREA** – An open area, other than a street, used for the display, sale or rental of new or used motor vehicles or trailers in operable condition where no repair work is done.

**BAR (ALSO TAVERN, PUB OR NIGHTCLUB)** – An establishment principally allows the sale and on-site consumption of alcoholic beverages on the premises. See Chapter 41 of the Town of Gorham municipal code (Open Containers Local Law).

**BED AND BREAKFAST** – A single family residence operated as an inn entirely within the principal residence, where lodging, with or without meals, are provided for transient guests and where no cooking or dining facilities are provided in individual bedrooms.

**BOARDING KENNEL** - Any building or structure where dogs and cats of any age are housed or boarded for a short-term or long term basis for outside owners. May board up to 20 animals at a time.

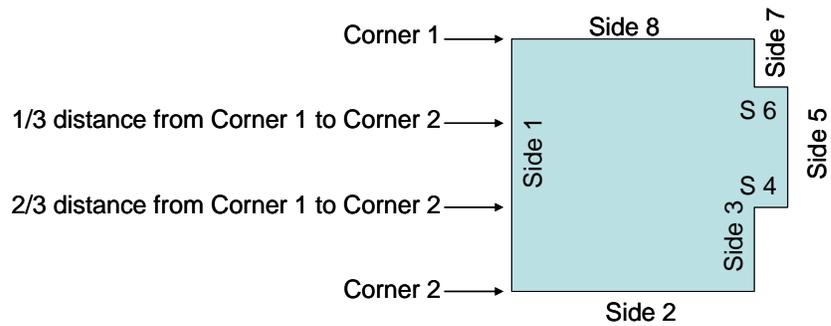
**BREWERY** – An industrial operation involving the brewing and/or bottling of beverages for local, regional, or national distribution and packaged sales.

**BUILDING** – A structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals, or property.

**BUILDING, ACCESSORY** – A building or structure containing a use that is subsidiary to the primary use of the property. Examples of accessory buildings or structures include pool equipment buildings, gazebos, small storage buildings containing lawn equipment.

**BUILDING HEIGHT** – The vertical distance measured from the mean elevation of the ground surrounding the structure to the highest point of the structure, but not including chimneys, spires, tanks, and similar projections. The mean elevation of the ground surrounding the building shall be determined by multiplying the mean elevation of the ground on each side of the building in question by the horizontal length of that

*Example showing locations to measure ground elevation on side 1.*



the resultant product for each side of the building, and then dividing that sum by the sum of the horizontal length of all sides of the building. The mean elevation of the ground of each side of the building shall be the average of the ground elevation above sea level at the end of each side of the building, the ground elevation at

one third the distance from one corner of that side to the second corner, and the ground elevation above sea level at two thirds the distance from one corner of that side to the second corner. Where a retaining wall exists or is proposed to hold material against the foundation or wall of the building in question and such a retaining wall is located within 20 feet of a side of the building, then the height of said retaining wall shall be subtracted from the ground elevation above sea level at every end or middle of each side of the building that is within 20 feet of said retaining wall for the purpose of determining the mean elevation of the ground surrounding the structure.

**BUILDING, PRINCIPAL** – A structure in which is conducted the principal use of the site on which it is situated. In any residential district any dwelling shall be deemed to be a principal building on the zone lot on which the same is located.

**BULK STORAGE FACILITIES** – The large-scale holding, enclosed or otherwise, of a transportable product for the primary purpose of distribution for future resale. This excludes storage silos used for on-site agricultural operations or commodity storage for on-site industrial processing.

**CAMP** – Any area of land, or land and water, including any buildings, tents, shelters, or other accommodations suitable for temporary or seasonal living purposes.

**CAMPGROUND** – A parcel of land used or intended to be used, let or rented on a commercial basis for transient and vacation recreational occupancy by travel trailers, tent, tent trailers, campers, motor homes, and the motor vehicles propelling or carrying the same, but excluding manufactured housing.

**CAMP UNIT SITE** – Shall mean the site on which the travel trailer, tent, tent trailer, camper, motor home, motor vehicle propelling the same, and also including the picnic tables, fireplaces, and other appurtenances that may be required.

**CAR WASH** – An area of land and/or a structure with machine- or hand-operated facilities used principally for cleaning, washing, polishing or waxing of motor vehicles.

**CAT** – A live felis catus or any cat hybrid.

**CEMETERY** – Land used for the burial of the dead and dedicated for cemetery purposes, including permitted accessory uses when operated in conjunction with and within the boundary of such cemetery.

**CHIMNEY** – A primarily vertical structure containing one or more flues for the purpose of carrying gaseous products of combustion and air from a fuel burning appliance to the outside atmosphere.

**CHURCH or RELIGIOUS INSTITUTION** – See Place of Worship.

**CLEAN WOOD** – Natural wood, which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.

**CLUB, PRIVATE or CLUBHOUSE** – Buildings, land or facilities which are used to serve a social, fraternal or service organization or club not organized or conducted for profit and which is not an adjunct to or operated by, or in conjunction with, a public recreational facility, cafe or other place of business.

**CLUSTERING** – See definition for Conservation Subdivision Development

**COLLECTOR ROADS** – See Roads, Collector.

**COMMERCIAL BREEDING FACILITY** – Any building or lot in the Town of Gorham wherein a person or persons keep five (5) or more but not more than twenty (20) intact (able to breed) female dogs or cats whose offspring will be offered or intended to be offered for sale.

**COMMERCIAL USE** – Includes the purchase, sale or any other transaction involving the handling, servicing or disposition of any article, substance or commodity, tangible or intangible, and includes retail or wholesale trade, services, offices, recreational and amusement enterprises and any operation where the above described activities are conducted in return for remuneration of any type.

**CONDOMINIUM** – An ownership arrangement in which the interior of a housing unit is individually owned, while the exterior, including land and facilities (common elements), is owned in common by all homeowners in the development. Depending on the arrangement, the owner may have title to the interior individual dwelling and a shared interest in the common elements or may own the property upon which the individual unit sits.

**CONSERVATION SUBDIVISION DEVELOPMENT** – Also known as Cluster Development in Section 278 of the Town Law of New York State. This type of development shall mean a subdivision plat or plats in which the Town Planning Board permits the modification of the Zoning Code to provide an alternative permitted method for the layout, configuration and design of lots, buildings and structures, roads, utility lines and other infrastructure, parks and landscaping in order to preserve the natural and scenic qualities of open lands. The modification must occur at the same time the plat or plats are approved pursuant to this Article. The purposes of such authorization will be to enable and

encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of the land.

**CONVENIENCE STORE** – A retail store containing less than 3,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages and household supplies to customers who purchase relatively few items. Such an establishment may include the sale of prepared foods, such as sandwiches, soups, ice cream, etc. for consumption on or off the premises and may include indoor seating for such purposes. A convenience store shall meet all of the requirements for a “gas station” if it includes the retail sale of gasoline or other vehicular fuels.

**COVERAGE** – The percentage of the plot or land area covered by the building area.

**CURB CUT** – The opening along a street at which point vehicles may enter or leave the roadway.

**CUSTOMARY FARMING OPERATION** – As defined by NYS Agriculture and Markets, this operation includes all services and practices performed on a farm in connection with cultivating the soil, in handling, planting, drying, packing, processing, grading or storing any agricultural commodity; but only if such service is performed on-site and is incidental to the farm operation. The processing of agricultural commodities for retail sale shall utilize products derived from the farm operation and be incidental to it.

**DAY CARE** – Daytime care or instruction of three (3) or more persons away from their own homes for more than three (3) but less than 24 hours per day, by an individual, association, corporation, institution or agency, whether or not for compensation or reward.

**DAY-CARE CENTER** – A place other than an occupied residence that provides or is designed to provide day care, or an occupied residence providing or designed to provide day care for seven (7) or more persons.

**DAY-CARE, HOME OR FAMILY** – An occupied residence that provides or is designed to provide day care for not more than six (6) persons.

**DISTRIBUTION CENTER** – A truck terminal facility at which any storage of goods or chattels is minor, transitory and merely incidental to the purpose of facilitating the transportation of goods or chattels.

**DOG** – A live *canis lupus familiaris* or any dog hybrid

**DWELLING** – Any building or portion thereof designed or used exclusively as the residence or sleeping place of one (1) or more persons.

- A. Dwelling, single family – A detached building, designated for or occupied exclusively by one (1) family and containing not more than one (1) dwelling unit.
- B. Dwelling, two family – A detached or semi-detached building where not more than two (2) individual family or dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or to a common cellar.

- C. Dwelling, multiple family – A building or portion thereof used or designed as a residence for three (3) or more dwelling units.
- D. Dwelling, townhouse – A dwelling accommodating or designed to accommodate a single family in a single dwelling unit, the walls on two sides of which may be in common with the walls on an adjoining dwelling and are party or lot line walls. The real property title and ownership of the building and property are vested in an owner having an undivided interest with others in the common usage areas and facilities which serve the project. Administration and maintenance of common usage areas and facilities must be provided.
- E. Seasonal Dwelling – A detached dwelling of not less than 400 square feet not designed for nor used for permanent occupancy, not occupied for more than six (6) months in any 12 month period, and which includes a means of sanitary disposal approved by the Town and where applicable approval by the Canandaigua Watershed Inspector and the New York State Department of Health. Seasonal dwellings are not designed nor intended to be occupied as permanent residences.

**DWELLING UNIT** – One (1) or more rooms, including cooking facilities, and sanitary facilities in a dwelling structure, designed as a unit for occupancy by not more than one (1) family for living and sleeping purposes.

**EFFICIENCY APARTMENT** – A multiple dwelling unit in which the sleeping area and living room are one – may also be referred to as a studio apartment.

**ESSENTIAL SERVICES** – The erection, construction, alteration or maintenance by public utilities or town or other governmental agencies of underground or overhead gas, electrical, or water transmission or distribution systems, communications systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith; reasonably necessary for the furnishing of adequate service by such public utilities or town or other governmental agencies or for the public health or safety or general welfare

This definition shall not include buildings, telecommunications towers, power stations or similar structures. Such facilities shall be included within the definition of “public utilities.”

**EXISTING OUTDOOR WOOD FURNACE** – An outdoor wood furnace that was purchased and installed prior to the effective date of this local law (2/25/08)

**EXTRACTION OF STONE AND OTHER MINING OPERATION** -- The extraction of 500 or more cubic yards of stone, gravel, sand, soil or other minerals from any lot within a period of 24 consecutive months for the purpose of sale. The term shall not include the incidental extraction and sale of soil or minerals as part of an agricultural use, development of a site, road construction, installation of utilities or other subdivision improvements.

**FAMILY** – One (1) or more persons occupying the premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, club, fraternity or hotel.

**FARM or FARM USE** – One or more parcels of land operated as a unit as a principal use for the purpose of producing agricultural, horticultural, floriculture, vegetable and fruit products of the soil, livestock, meats, poultry, eggs, dairy products, nuts, honey, wool and hides, but shall not include the breeding, raising, or maintaining of furbearing animals, or abattoirs, riding academies, livery stables or animal kennels. A garden accessory to a residential use shall not be deemed a farm or farm use. A principal farm use may include a dwelling or dwellings as an accessory use.

**FARM USE, SMALL-SCALE** – A commercial farming operation on a residential parcel where the residential use is the primary use of the parcel. The farming operation is the secondary use. It also does not meet New York State Department of Agriculture and Markets’ definition for an agricultural operation, which is 7 acres in size or more or \$10,000 or more in annual gross sales for a minimum of two consecutive years.

**FARM LABOR HOUSING** – Individual or a grouping of on-farm buildings or structures, including manufactured homes, which are utilized as living and sleeping quarters for permanent or seasonal farm laborers and their families.

**FARM MARKET** – A structure with more than 120 square feet of gross floor area intended for the sale of farm produce and other agricultural products or crafts. (See also FARM STAND.)

**FARM STAND or ROADSIDE STAND** – A temporary structure, no larger than 120 square feet in gross floor area, designed, arranged or used for the display and/or sale of agricultural or other products produced primarily on the premises or on the farm upon which the stand is located, or upon land where the applicant has received written permission from the property owner to locate such a stand on a temporary basis.

**FENCE** – A structure of wood, masonry, wire, or other material, including but not limited to a pen or enclosure, erected for the purpose of assuring privacy or protection, which inhibits unrestricted travel or view between properties or portions of properties or between the street or right-of-way and a property. The height of a fence shall be the vertical distance measured above grade to the top of the highest point of the fence at that location. Posts, corners, gates, and other appurtenances of a fence shall be subject to the same height requirement as the fence as a whole (in other words, if a fence cannot be more than 4 feet high, then no part of the fence may be more than 4 feet above the existing ground elevation).

**FLOOD PLAIN** – Areas subject to a 1% or greater chance of flooding in any given year as shown on the United States Department of Housing and Urban Development Flood Insurance Rate Map.

**FLOOD PLAIN DISTRICT** – This district is superimposed over those portions of other zoning districts which lie within a flood plain as defined in this Local Law.

**FLOOR AREA** – See GROSS FLOOR AREA.

**FRONTAGE** – See ROAD FRONTAGE.

**FUEL OIL STORAGE** – Premises used for the storage of fuel oil, kerosene or other combustible fuel in tanks for the sale by motor vehicle or other means of conveyance to purchasers at some other

location, and excluding gasoline storage tanks used at gasoline stations for retail sales or tanks used by individuals when fuel is not sold.

**FUNERAL HOME** – A building or portion thereof, with or without an accessory dwelling unit, used principally for preparing cadavers for interment, including embalming, holding wakes or conducting funeral services. The term shall include a mortuary, but shall not include a crematorium.

**GARAGE, PRIVATE** – A detached, or attached accessory building used only for the storage of private passenger vehicles and household belongings.

**GARBAGE** – Waste food, papers, dead animals or parts thereof, and all waste or discarded wood, lumber or vegetable matter of any kind, or any other matter which shall be inflammable or capable of fermentation or decay.

**GARDEN CENTER** – Establishments or places of business primarily engaged in retail sales of material grown or produced on the premises including trees, shrubs, seeds, fertilizers, pesticides, plants and plant materials primarily for agricultural, residential and commercial consumers. Such establishments typically also sell products purchased from others.

**GASOLINE STATION** – Any building, land area or other premises or portion thereof used or intended to be used primarily for the retail dispensing or sales of vehicular fuels and which may include, as an accessory use, the sale and installation of lubricants, tires, batteries and similar accessories. A convenience store shall meet all of the requirements of a "gasoline station" if it includes the retail sales of gasoline or other vehicular fuels.

**GRAVEL OR SAND PIT** – See **EXTRACTION OF STONE AND OTHER MINING OPERATION**.

**GREENHOUSE, COMMERCIAL** – Any building or structure used as a conservatory for the growing and protection of flowers and plants, and for the propagation and culture thereof, in which the plants are offered for sale to the public.

**GREENHOUSE, PRIVATE** – Any accessory building or structure used as a conservatory for the growing and protection of flowers and plants, and for the propagation and culture thereof, in which the plants are NOT available for public sale or purchase.

**GREEN SPACE** – Land areas covered only by grass, trees or other vegetation.

**GROSS FLOOR AREA (GFA)** – The sum of the gross horizontal areas of the overall floors of the building or buildings on a lot, measured from the exterior faces of exterior walls or from the center line of party walls separating two (2) buildings, excluding:

- A. Roof areas, stairways, and any floor space with floor to ceiling height less than seven (7) feet.
- B. Cellar and basement areas used only for storage or for the operation and maintenance of the building.
- C. Any areas devoted only to accessory off-street parking or loading.

**HEDGE** – Evergreen or deciduous shrubs or trees planted in a line for the purpose of assuring privacy or protection, inhibiting or prohibiting unrestricted travel or view between properties, or between the street right-of-way and a property.

**HEIGHT** – See “BUILDING HEIGHT.”

**HOME BUSINESS** – A commercial or industrial use, other than a home occupation, conducted within or on the same lot as an occupied single family dwelling by the inhabitants thereof. The term “home business” shall include a commercial or industrial use conducted in conjunction with a farm use. The type of business permitted shall include, but not be limited to, those involving the manufacture, provision, or sale of goods and/or services on the premises. A “Class A” or “Class B” Home Business is a home business that meets the respective criteria specified in Article 9.

**HOME OCCUPATION** – Any occupation or profession, including home professional offices conducted entirely within a dwelling by the inhabitants thereof, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. For the purpose of these regulations, a home occupation shall not involve client or customer visits to the home.

**HOME OWNERS ASSOCIATION** – An organization created by a third party, typically a real estate developer, for the purpose of controlling the appearance and managing any common area assets/facilities during the marketing, managing and selling of homes and sites in a residential subdivision. Ownership of the association is typically transferred to the member homeowners after selling off a predetermined number of lots. Common area assets/facilities are not available to the public.

**HOSPITAL** – An institution providing health services and medical or surgical care, primarily for temporary inpatients, to persons suffering from illness, disease, injury, deformity or other abnormal physical or mental condition, and including as an integral part of the institution related facilities such as laboratories, outpatient facilities or training facilities.

**HOTEL OR MOTEL** – A commercial use consisting of one (1) or more buildings which provide sleeping rooms used or intended to be used for transient occupancy by persons who reside elsewhere. The term includes, but is not limited to, an inn or lodge. The term does not include a bed-and-breakfast inn.

**HUNTING/ FISHING CLUB** – A facility, whether open to the public or limited to members of a group, which offers such activities as game hunting, fishing, trap or skeet shooting, target shooting, target practice, game farms, and related uses such as assembly halls or sales of bait or equipment. The term includes rod & gun clubs and sportsmen’s clubs. Hunting/ fishing clubs are included within the definition of “Outdoor Recreation Facility, Private.”

**INDUSTRY, HEAVY** – A use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials or a use engaged in storage of or manufacturing processes using flammable or explosive materials or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

**INDUSTRY, LIGHT** – A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, but exclusive of basic industrial

processing and storage of flammable or toxic materials. "Light industry" is also exclusive of uses that require heavy, noisy or otherwise objectionable disturbances, such as vibration, dust and odors.

**INSIDE STORAGE, COMMERCIAL** – A building or enclosed structure that is used in whole or in part for the temporary commercial storage of seasonal equipment, boats, vehicles, and other goods not being stored for sale or distribution.

**JUNK** – Junk includes scrap metals and their alloys, bones, used materials and products (such as rags and cloth, rubber, rope, tinfoil, bottles, old tools and machinery, automobiles, fixtures, appliances, lumber, boxes or crates, pipe and pipe fittings), and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition, but are subject to being dismantled for sale of parts.

**JUNK YARD** – An area of land, with or without buildings, primarily used for the storage outside of a completely enclosed building, of used and discarded materials, including but not limited to waste paper, rags, metal, building materials, house furnishing, machinery, vehicles or parts thereof, including junk as defined in this Article, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. The deposit or storage of two (2) or more wrecked or broken or unregistered motor vehicles, or the major parts of two (2) or more such vehicles shall be deemed to make the lot a "junk yard."

**KENNEL** – Any structure used to shelter or incarcerate four (4) or more dogs, male or female, over the age of six (6) months. All such structures utilized for housing four or more dogs over the age of six (6) months shall be considered a kennel for the purposes of this Local Law regardless of whether the kennel is operated as a commercial business or for the enjoyment of the owner or tenant.

**LABORATORY, RESEARCH AND DEVELOPMENT** – A building or group of buildings in which are located facilities for scientific research, investigation, experimentation or testing, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

**LIBRARY or MUSEUM** – A building or facility used by a public or nonprofit institution for the purpose of housing, display and/or study of books, manuscripts, collections, art, exhibits or other educational or cultural materials.

**LIGHT TRESPASS LIMITATIONS** – The shielding of outdoor lighting fixtures in such a manner so that illumination from the lighting fixture is contained on the property on which it originates from.

**LOCAL ROADS** – See "ROADS, LOCAL."

**LOT** – A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory or incidental to the operation thereof, together with such open spaces as required by this Local Law, and having frontage on a public street. Only one (1) principal use is permitted on a lot.

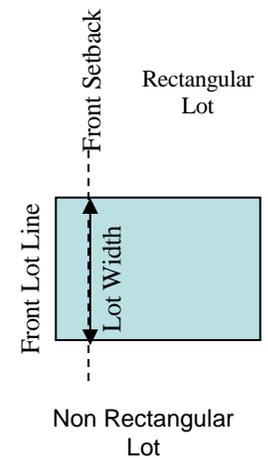
A. **Lot, Corner** – A lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street, such streets or parts of the same street forming an interior angle of less than 135 degrees. The point of intersection of the street lot lines is the "corner."

- B. Lot, Depth – The mean horizontal distance between the front and rear lot lines.
- C. Lot Lines – The property lines bounding the lot.
  1. Lot Line, Front – The line separating the lot from a street or roadway right-of-way. (Except in the Lakeshore Overlay District, where the front lot line shall mean the line dividing the property from the high water mark of Canandaigua Lake.)
  2. Lot Line, Rear – The lot line opposite and most distant from the front lot line.
  3. Lot Line, Side – Any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a side street lot line.
  4. Lot Line, Street – A lot line separating the lot from a street.

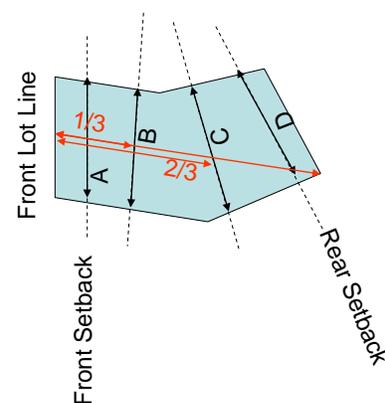
D. Lot Width – For rectangular lots this shall be the mean horizontal distance between the side lot lines as measured parallel to the front lot line.

In the case of lots that are not strictly rectangular, the lot width shall be the average of the horizontal distance between the side lot lines as measured at a distance equal to the required minimum front setback of a principal structure from the front lot line and parallel to the front lot line, the minimum horizontal distance between the side lot lines measured along a line passing through a point one third the horizontal distance along a line connecting the centerpoint of the front lot line to the farthest rear corner of the lot, the minimum horizontal distance as measured along a line passing through a point two thirds the horizontal distance along a line connecting the centerpoint of the front lot line to the farthest rear corner of the lot, and horizontal distance between side lot lines as measured at a distance equal to the minimum required rear setback for a principal structure from the rear lot line and parallel to the rear lot line.

In the case of lots with lake frontage, the lot width shall be smaller of the minimum horizontal distance between the farthest spaced two points on the lot intersecting the mean high water elevation of Canandaigua Lake, or the lot width as determined by the appropriate of the two proceeding methods.



$$\text{Lot Width} = (A+B+C+D)/4$$



E. Lot Area – The computed area contained within lot lines.

**LOT COVERAGE** – The percentage of the total area of a lot covered by impervious and substantially impervious surfaces on or proposed to be permanently located on a lot. Impervious or substantially impervious surfaces shall include buildings (both primary or accessory), sidewalks, decks (wood, concrete, gravel, blacktop, etc), stairs, landings, retaining walls, planters or planting boxes, driveways, building and roof overhangs, awnings, paved or gravel parking areas, and any other paved, graveled, or constructed surface on or proposed to be permanently located on the lot.

**LOT OF RECORD** – A parcel of land properly recorded with the County Clerk and assigned a unique tax parcel identification number at the time of passage of this Local Law.

**LOT, NON-CONFORMING** – A lot existing at the time of the enactment of this Local Law which does not conform to the requirements of the district in which it is situated.

**MANUFACTURED HOUSING** – A dwelling unit or units manufactured off premises in whole or in a small number of large, pre-assembled sections. Such construction shall comply to either the requirements of the U.S. Department of Housing and Urban Development in effect at the time of its manufacture and bearing a seal evidencing this fact, or shall comply to the New York State Uniform Fire Prevention and Building Code. Such dwelling units were formerly commonly referred to as mobile homes and modular homes.

**MANURE PILE** – Any consolidation of animal waste stockpiled on the property in a location other than within a barn or a manure storage facility. A pasture area where animal waste is not concentrated by human intervention shall not be considered a manure pile.

**MANURE STORAGE FACILITY** – A facility constructed as an accessory use to an animal husbandry use, riding stable, or kennel, intended to collect, hold, process, store, treat, or distribute animal solid and/or liquid waste. Included within this definition are storage tanks, lagoons, seepage pits, drains, and collection systems intended to handle animal waste. Not included within this definition are systems designed and constructed to handle human waste. A manure pile in a barn used for keeping animals, or a manure pile sitting on a concrete pad, the ground, gravel, or similar material and not contained by a liner of some material intended to prevent infiltration of waste water into the ground, shall not be considered a Manure Storage Facility.

**MARINA** – A lot, building, structure, pier, dock or portion thereof located with shoreline frontage and access to navigable water and used for the launching, mooring, rental, sale, fueling and/or repair of watercraft and including such boat storage, boat launch facilities, and such sales of bait, tackle and marine supplies as may be accessory to such marinas. The term “marina” shall include “yacht club.”

**MEDICAL OFFICES/CLINICS** – A facility or institution, whether public or private, where medical or dental care is furnished to persons on an outpatient basis by one (1) or more doctors or dentists; a place for the care, diagnosis and treatment of sick, ailing, infirm or injured persons and those who are in need of medical or surgical attention but who are not provided with board or room or kept overnight on the premises; a facility for human ailments operated by a group of physicians, dentists, chiropractors or other licensed practitioners for the treatment and examination of outpatients.

**MOTEL, MOTOR COURT, AND MOTOR HOTEL** – A series of attached or semi-detached dwelling structures, where each unit has convenient access to parking space for the use of the unit's occupants. The units, with the exception of the manager's or caretaker's are designed to provide sleeping accommodations for automobile transients or overnight guests.

**MOTOR VEHICLE REPAIR SHOP** – A building or portion of a building arranged, intended or designed to be used primarily for making repairs to motor vehicles. This shall include auto repair and/or paint shops.

**MOTOR VEHICLE SALES** – Any area of land, including structures thereon, the principal use of which is the display or sale of new and/or used automobiles, motorcycles, trucks, cargo trailers, boats, recreational vehicles or other vehicles, and which may or may not include the repair of vehicles as an accessory use. Enclosed showrooms and open display areas are included in this definition. The sale of motor fuels is not included in this definition.

**NON-COMMERCIAL BREEDING FACILITY** – Any building or lot in the Town of Gorham shall be considered an accessory use in all districts wherein a person or persons keep four (4) or less intact (able to breed) dogs or cats whose offspring will be offered or intended to be offered for sale.

**NURSING OR CONVALESCENT HOME** – A structure designed or used for residential occupancy and providing limited medical or nursing care on the premises for occupants, but not including a hospital.

**OPEN SPACE, PERMANENT** – Space dedicated to the Town of Gorham or set aside by easement or other manner in a form acceptable to the Town of Gorham for use as a park, wildlife preserve, forest area, or other similar use deemed acceptable by the Town of Gorham. Where permanent open space is required as part of a development review, the calculation of the area of such permanent open space shall not include requisite setbacks, roads, wetlands designated as protected by the New York State Department of Environmental Conservation, the developable area of any building lot which in no case shall be less than the minimum lot required in the zoning district, nor the area of any stormwater management facility, including but not limited to detention and retention ponds, streams, swales, and drainage ditches.

**OUTDOOR RECREATION FACILITY** – Land developed by a private sponsor with facilities for passive recreation, e.g., trails and picnic areas, and/or with facilities for active outdoor individual or organized recreation, e.g., ball fields, tennis courts, swimming pools, ski trails, and ice-skating areas. This definition includes golf courses, riding stables, hunting and/or fishing clubs, and open air theaters or drive-in theaters. This definition does not include arenas, stadia or other facilities for the accommodation of more than 200 spectators, campgrounds, or racetracks or other facilities featuring activities involving motorized vehicles.

**OUTDOOR WOOD FURNACE** – Any equipment, device, appliance or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source. An Outdoor Wood Furnace may also be known as an Outdoor Wood Boiler or Outdoor Wood-Fired Hydronic Heating Unit.

**PARK, PRIVATE, NON-COMMERCIAL** – Outdoor recreation facilities, operated by a non-profit organization and open only to bona fide members of such non-profit organization.

**PARK OR RECREATION AREAS, PUBLIC** – Outdoor recreation facilities or other entertainment facilities operated as a non-profit enterprise by the Town of Gorham, any other governmental entity or any non-profit organization and open to the general public. This definition includes areas used for recreation or conservation purposes, such as picnic areas; swimming pools and beach areas; scenic overlooks and preservation areas; camping grounds and campsites; hiking trails; riding stables and trails; playgrounds; stadiums and arenas for games and sports; amphitheaters and other performing arts facilities; sites for historical monuments and markers; and related service buildings, including those for dining and refreshments, roads, trails, automobile parking areas and signs of an informational, directional and identification nature.

**PARKING AREA, PUBLIC, OR PUBLIC PARKING** – An unroofed, off-street area used for the temporary storage of self-propelled vehicles and available for public use, whether free, for compensation or as an accommodation for clients or customers.

**PERCOLATION RATE** – The rate in minutes per inch as determined by following the test procedure as set forth in the most recent edition of the New York State Waste Treatment Handbook as published by the New York State Department of Health. Said percolation rates must be obtained from the area of the site on which a septic system leach bed is intended to be constructed, or would normally be constructed. For the determination of minimum lot sizes in accordance with this Local Law, such percolation tests must be taken in native soil.

**PLACE OF WORSHIP** – Any building wherein persons regularly assemble for religious worship which is used only for such purpose and those accessory activities as are customarily associated therewith; includes temple, synagogue, mosque or other similar place of worship.

**PLANNED DEVELOPMENT GROUP** – A structure or a group of structures to be maintained and operated as a unit in single ownership or control by an individual, partnership, corporation or cooperative group, and which has certain facilities in common, such as yards and open spaces, recreation areas, garages, and parking areas.

**PLANNING BOARD** – The Planning Board of the Town of Gorham, appointed by the Town Board in accordance with NYS Town Law.

**PRINTING/PUBLISHING ESTABLISHMENT** – A business for the printing of books, magazines or other publications, excluding retail sales of such products on the premises.

**PRIVATE BREEDING FACILITY** – Any building or lot in the Town of Gorham wherein a person does not meet the definition of “commercial breeding facility”, where four (4) or less intact (able to breed) dogs/cats are bred by the owner for the purpose of hunting, tracking, exhibiting in dog/cat shows, performance events and or field and obedience events and not intended to be offered for sale, nor operated as a business.

**PRIVATE SOLAR COLLECTION SYSTEM** – An accessory use consisting of a solar collection system sized to provide the amount of energy needed for the principal use on the property.

**PROFESSIONAL OFFICES** – The office or place of business where professional services are offered and does not mainly involve the sale of goods or the keeping of a stock-in-trade. "Professional offices" include, but are not limited to: doctors, dentists, surgeons, attorneys, architects, engineers, planners, accountants, real estate brokers, insurance brokers, psychologists, veterinarians and chiropractors.

**PUBLIC AND SEMI-PUBLIC USES OR BUILDINGS** – A use or structure that is of an institutional, health, educational, municipal/governmental, recreational, religious or cultural nature and is provided for the common good, education, health, safety or welfare of citizens.

**PUBLIC UTILITIES** – Facilities, including buildings and structures, but not including "essential services" and "telecommunications facilities" as defined herein, for the generation and transmission of gas, electricity, water, telephone, telecommunications or other comparable service regulated by a state or federal government agency.

**RECREATION, COMMERCIAL** – A building, structure or portion thereof used principally for recreation, sports or leisure activity, conducted as a commercial enterprise or otherwise as a principal

use. The term includes, but is not limited to, billiard parlors, bowling halls, live or motion-picture theaters, amusement or video game centers, indoor sports facilities, gymnasiums, physical fitness centers, martial arts schools and dance schools. The term does not include adult entertainment establishments, special events facilities or indoor recreation as a community facility or as an accessory use for an institutional use, membership club or nonprofit organization.

**RECREATIONAL TRAILER** – A vacation trailer, travel trailer, fifth wheeler, “porch home,” or camper of any description, either towed or self-contained, motorized or non-motorized, intended to be used or occupied as a vacation vehicle or trailer, and not intended to be located with permanent sewer, water, and electric hookups.

**RELIGIOUS USE** – See “CHURCH OR RELIGIOUS INSTITUTION.”

**RESCUE ORGANIZATION FACILITY** – Any facility where homeless, stray, abandoned, rescued or unwanted animals are received, harbored, maintained or made available or adoption to the general public and which is owned, operated or maintained or made available for adoption to the general public and which is owned, operated or maintained by a duly incorporated humane society, animal welfare society or other non-profit/tax exempt organization devoted to the welfare, protection and humane treatment of animals.

**RESCUE ORGANIZATION NETWORK FOSTERING FACILITY** – Any facility where a person or persons house up to 4 dogs at a time, not including owner’s animals, at the request of a duly incorporated humane society, animal welfare society, society for the prevention of the cruelty to animals or other non-profit or tax exempt organization devoted to the welfare, protection or humane treatment of animals who accepts companion animals for the purpose of rehabilitating, socializing and finding permanent adoptive homes for animals and does not maintain a central facility for keeping animals but rather uses a system of fostering in private homes or boarding or keeping dogs/cats in animal shelters. A facility housing more than 4 dogs at a time, not including owner’s animals, shall be considered a Boarding Kennel.

**RESIDENTIAL CARE FACILITY** – A facility that provides custodial care for up to 10 persons who, because of physical, mental, or emotional disorders, are not able to live independently.

**RESIDENTIAL EGG LAYING** – The raising and keeping of up to twelve (12) female chickens for the purpose of egg production. Female chickens kept as part of a residential egg laying accessory use shall be housed in a shelter located in conformance with the setback requirements of the zoning district in which they are located, and shall be protected from predators by fencing located in compliance with the setback requirements of the zoning district in which they are located.

**RESTAURANT** – Any establishment, however designed, at which food is sold for consumption to patrons seated within an enclosed building or on the premises, and which may include drive-up window service for the convenience of its patrons. However, a snack bar or refreshment stand at a public or quasi-public or community pool, playground or park operated by the agency or group or by a vendor approved by such agency or group for the convenience of the patrons of the facility shall not be deemed to be a "restaurant."

**RESTAURANT, FAST-FOOD OR DRIVE-IN** – An establishment whose principal business is the sale in disposable packaging of prepared or rapidly prepared food directly to the customer in a ready-

to-consume state for consumption either within the restaurant building or off the premises. A delicatessen or bakery shall be considered a retail establishment and shall not be included in the definition of "fast-food or drive-in restaurant".

**RETAIL ESTABLISHMENT** – A commercial activity designed for and primarily characterized by the on-premises sale of goods directly to the ultimate end user/consumer, but also including servicing, preparation, storage and wholesale business transactions related to such goods and customarily associated therewith but clearly incidental thereto.

**RIDING ACADEMY** – A commercial use where horses are stabled and boarded and made available for rent for riding on trails on the property or along roads or right-of-ways on or adjacent to the premises.

**ROAD FRONTAGE** – The length of the lot line dividing the lot from a public road right of way.

**ROADS, COLLECTOR** – Collector Roads are herein designated as follows:

State Route 364, State Route 245 from the County Road 18 intersection south and west to the Village of Rushville, State Route 247, County Road 1, County Road 11, County Road 17, County Road 18, County Road 24, and County Road 29 from the 1<sup>st</sup> bridge south of the State Route 245 intersection south to the Town Boundary, and Middle Road.

**ROADS, LOCAL** – All roads in the Town of Gorham not designated as collector roads.

**ROADSIDE STAND** – See "FARM MARKET."

**ROOMING HOUSE** – A building containing a single dwelling unit and containing rooms for the rooming and/or boarding of at least three (3) persons, but not more than 25 persons by pre-arrangement for definite periods of not less than one (1) week.

**SCHOOL OR COLLEGE** – An institution or place of learning, including private, public and parochial facilities that provide a curriculum of elementary and secondary academic instruction, as well as higher education, including kindergartens; elementary, middle, junior and senior high schools; and two-year, four-year and advanced degree institutions. This definition shall not include day care centers (nursery schools) or specialized, trade, professional or business schools as defined below.

**SCHOOL, SPECIALIZED, TRADE, PROFESSIONAL OR BUSINESS** – A school giving regular instruction in: trades or specialized skills such as welding, hair dressing, cosmetology, or massage; or professional subjects, such as the dramatic or graphic arts, business, dancing, languages, music, or sciences; or business skills such as computer programming, stenography and secretarial courses. For the purpose of these regulations, such schools shall be deemed to be commercial service establishments.

**SERVICE ESTABLISHMENT** – An establishment primarily engaged in rendering services on a fee or contract basis to the general public or to business establishments. This term shall not include any service activity which may also be similarly characterized, but which is separately identified as a use permitted within a zoning district.

**SETBACK** – An open space, which lies between the principal building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward except as herein permitted.

**SETBACK, FRONT** – An open space, unoccupied and unobstructed from the ground upward except as herein permitted, extending the full width of the lot between each principal and accessory building and the closest right-of way line of each public and private highway or roadway on which the lot fronts or which crosses said lot.

**SETBACK, REAR** – An open space extending the full width of the lot between a principal building and the rear lot line, unoccupied and unobstructed from the ground upward.

**SETBACK, SIDE** – An open space extending from the front yard to the rear yard between a principal building and the nearest side lot line, unoccupied and unobstructed from the ground upward.

**SIGN** – A name, identification, description, display, or illustration or any other visual display which is affixed to or painted on, or represented directly or indirectly upon a building structure or piece of land and which directs attention to an object, product, place, activity, person, institution, organization, or business.

However, a sign shall not include any display of official court or public office notices nor any official traffic control device nor shall it include the flag, emblem, or insignia of a nation, state, county, municipality, school, or religious group. A sign shall not include a sign located completely within an enclosed building except for illuminated or animated signs within show windows. Each display surface of a sign shall be considered to be a sign.

**SITE PLAN** – A drawing or drawings and other attachments conforming to the requirements of Article 10 herein and depicting existing and/or proposed improvements on a lot or lots. Site Plans do not show modifications in property boundaries.

**SOLAR COLLECTION SYSTEM** – All of the equipment necessary to collect energy from the sun and convert it into heat, electric, or other useful form. Any lot area occupied by components of a solar collection system shall be counted in the total lot coverage calculation.

**SOLAR COLLECTORS** – Panels or devices designed and intended to collect energy from the sun. Solar collectors may be either roof, wall, or ground mounted (free standing).

**SOLAR FARM** – A solar collection system intended to provide energy for use off site, for example intended to provide electricity to be sold back to the local electric utility company.

**SPECIAL USE** – A special use is a use which, because of its unique characteristics, requires individual consideration in each case and requires the granting of a Special Use Permit by the Planning Board before it may be permitted in the district. Special Uses for each district are enumerated in Article 4.

**STEEP SLOPES** – Areas where the ground has a grade of 15 percent or higher.

**STORAGE FACILITY, SELF-SERVICE** – Any building or group of buildings on a single parcel made of individual storage compartments, which are rented or leased to individuals or businesses for storage of nonhazardous materials, personal property and equipment.

**STRUCTURE** – Anything constructed, the use of which requires permanent location on the ground, or attachment to something having permanent location on the ground, including but not limited to stationary and portable carports and storage and other similar structures.

**STRUCTURE, NON-CONFORMING** – A structure or sign, the design or size of which does not conform to the regulations of this Local Law for the district in which it is located.

**SUBDIVISION** – The division of any parcel of land into two or more lots, plats, sites, or other division of land, for the purpose, whether immediate or future, of transfer of ownership or building development, and shall include resubdivision. However, the following shall not be included within this definition: the public acquisition by purchase of strips of land for the widening or opening of streets; and the transfer of agricultural parcels of at least 20 acres for the purpose of continuing agricultural production providing that the resultant parcels comply with all minimum dimensional requirements of this Local Law.

**TELECOMMUNICATIONS ACCESSORY FACILITY** – Any facility or structure serving or being used in conjunction with a telecommunications tower, and located on the same lot, or contiguous lot held in common ownership, as the telecommunications tower. Examples of such facilities include transmission equipment, and storage sheds, buildings or cabinets.

**TELECOMMUNICATIONS FACILITY** – Telecommunications towers, antenna(e), and accessory facilities used in connection with the provision of radio, television, cellular telephone, PCS, paging and similar services.

**TELECOMMUNICATIONS TOWER OR TOWER** – A structure on which transmitting and/or receiving antenna(e) are located. It includes without limit, free-standing towers, guyed towers, monopoles, and other similar structures.

**TOURIST HOME** – See “BED AND BREAKFAST.”

**TOWER DESIGN HEIGHT** – The tower height as constructed or proposed as defined herein, plus any additional height above grade the tower is designed to be able to accommodate as specified in any condition of site plan or special use permit approval of a telecommunications facility by the Planning Board.

**TOWER HEIGHT OR FULL VERTICAL TOWER LENGTH** – The vertical distance from the elevation of grade prior to construction at the base of the tower to the top of the highest point of construction of said tower above grade. The highest point of construction shall include any antenna(e) or other appurtenance permanently attached or mounted upon said tower, including the blade of any WECS when it is in a vertical position.

**TOWN BOARD** – The governing body of the Town of Gorham.

**TOWNHOUSE** – An independent single family dwelling unit which is one of a series of dwelling units, having a common party wall between each adjacent unit, each with private outside entrance.

**USABLE OPEN SPACE** – Required open space which shall be entirely open except for planting, landscaping, and recreational equipment and shall be available for the sole enjoyment of the occupants of the zone lot of which it shall be a part, and shall not include any side yards, driveways, and accessways.

**USE, NON-CONFORMING** – A building, structure, or premises legally existing and/or used at the time of the adopting of this Local Law, or any amendment thereto, and which does not conform with the use regulations of the district in which located.

**VARIANCE** – The Board of Appeals authorized departure from the terms of this Local Law in accordance with the procedures set forth in this Local Law.

**VETINARIAN OFFICE OR ANIMAL HOSPITAL** – See “PROFESSIONAL OFFICES.”

**WAREHOUSE** – A building or part of a building used or intended to be used primarily for the storage of goods or products that are to be sold retail or wholesale from other premises or sold wholesale from the same premises; for the storage of goods or products to be shipped on mail order; for the storage of equipment or materials to be used or installed at other premises by the owner or operator of the warehouse; or for similar storage purposes, or stored for use in connection with industrial assembly operations. The term "warehouse" shall not include a retail establishment whose primary purpose is for the sale of goods or products stored on the premises. However, this definition is may include purely incidental retail sales as an accessory use.

**WHOLE FARM PARCEL PLAN** – A visual plan that identifies all physical features and resources associated with a farm operation as part of proposed development review. See section 31.4.1 of the Zoning Code.

**WHOLESALE STORE** – A commercial activity primarily characterized by the sale of goods in quantity and/or bulk to other wholesale, retail, manufacturing, construction, institutional or other establishments and enterprises, including on-premises storage and distribution facilities.

**WIND ENERGY CONVERSION SYSTEMS OR WECS** – Any mechanism designed for the purpose of converting wind energy into electrical energy. This definition shall include the tower, monopole, or other structure supporting the mechanism at its final working location. The height of a WECS shall be considered the vertical distance as measured from the average elevation at the base of the structure to the tip of the highest point of the structure including all blades when at their apex position.

**WECS, Commercial** – A WECS that is incidental and subordinate to a commercial, industrial, or farm use on the same parcel and supplies electrical power solely for on-site use, except that when a parcel on which a commercial WECS is installed also receives electrical power supplied by a utility company. The generation capacity of the WECS shall be roughly equivalent to the expected peak load demand of the commercial use on the property. All Commercial WECS shall require a Special Use Permit and Site Plan Review and Approval by the Planning Board.

**WECS, Residential** – A WECS that is incidental and subordinate to a residential use on a property and intended to supply electrical power solely for consumption of said residence. Where such residence is also supplied with electrical power by a utility company, excess electrical power generated by the WECS on site may be sold back to the utility company. The generation capacity of the WECS shall be roughly equivalent to the expected peak load demand of the residential use on the property. All Residential WECS shall require a Site Plan Review and Approval by the Planning Board.

**WIND FARM** – A commercial enterprise where one or more WECS are located and attached to the commercial utility grid for the purpose of generating and selling electric power for off premises use. The energy created on a wind farm is not intended to be used primarily for consumption on the premises. Wind Farms shall require rezoning to WFD – Wind Farm Zoning District. Review of Wind Farms shall include all interconnections with the power utility grid, and all buildings and electrical substation or stations required for such interconnection. Rezoning a property to WFD shall grandfather compatible uses on the property where a preexisting principal use or uses exist, such as agriculture, provided all setback requirements of this local law are met.

**WINERY** – Any place or premises wherein wines (alcoholic or non-alcoholic) are manufactured and/or bottled from any fruit for local, regional or national distribution as well as package sales.

**YACHT CLUB** – A club established for the principal purpose of engaging in recreational boating.

**ZONING BOARD OF APPEALS** – The Zoning Board of Appeals of the Town of Gorham, as appointed by the Town Board in accordance with NYS Town Law.

**ZONING MAP** – The Zoning Map of the Town of Gorham, dated \_\_\_ day of \_\_\_ 2000, together with all amendments subsequently adopted.

**ZONING OFFICER** – The officer of the Town of Gorham appointed and designated as the Zoning Officer of the Town of Gorham by the Gorham Town Board. This official may also be referred to as the Building Inspector and/or the Code Enforcement Officer as title and duties may be assigned by the Gorham Town Board.

**ZONING PERMIT** – The issuance of a building permit pursuant to chapter 36 shall be deemed the issuance of a zoning permit indicating compliance with the requirements of this local law.

**ARTICLE 3 - ESTABLISHMENT AND DESIGNATION OF DISTRICTS**

**31.3.1 DISTRICTS ESTABLISHED**

Eight (8) basic zoning districts, four (4) overlay districts, and two (2) “floating” districts are hereby established in this Zoning Local Law for the Town of Gorham.

**31.3.2 DISTRICTS REGULATED**

Within these districts no premise, lot, building, or structure shall be used, and no building or structure shall be erected or altered to be used in whole or in part unless it complies with the following regulations, and with the Zoning Schedule.

**31.3.3 RESERVED**

**31.3.4 DESIGNATION OF DISTRICTS**

**A. Basic Zoning Districts**

The Town of Gorham is hereby divided into the following basic zoning districts:

FP	Farming Preferred District
R-1	Single Family Residential District
HR	Hamlet Residential District
RR	Rural Residential District
PDD	Planned Development District
GB	General Business District
HC	Hamlet Commercial District
I	Industrial

**B. Overlay Districts**

The following overlay districts shall be superimposed over the basic districts as described in Article 4:

FPO	Floodplain Overlay District
LFO	Lake Front Overlay District
TOD	Telecommunications Overlay District

**C. Floating Zones**

The following districts shall function as floating zones, meaning requests to have property rezoned to these designations may be made to the Town Board where uses exist or are proposed consistent with the requirements of these districts:

PRD	Planned Residential Development District
WFD	Wind Farm District

**31.3.5 RESERVED**

**31.3.6 ZONING MAP**

- A. There shall exist only (1) set of official zoning maps of the Town of Gorham which shall be kept in the office of the Town Clerk and they shall bear the seal of the Town of Gorham, a certification that it is the official zoning map of the Town of Gorham and its date of adoption. Said zoning map set is hereby adopted and made a part of this Local Law by reference, and consists of the following:
1. A map showing the boundaries of the zoning districts overtop of tax map parcels existing within the Town of Gorham with a key, scale, and north arrow; and
  2. A map showing the boundaries of all zoning overlay districts overtop of tax map parcels existing within the Town of Gorham, with a key, scale, and north arrow; and
  3. A map of the Crystal Beach area showing the boundaries of the zoning districts overtop of tax maps parcels existing within the Town of Gorham with a key, scale, and north arrow; and
  4. A map of the hamlet of Gorham area showing the boundaries of the zoning districts overtop of tax maps parcels existing within the Town of Gorham with a key, scale, and north arrow.
- B. Copies of said zoning map set shall be made from the digital geographic files which were used to create said zoning map and which are archived at the Office of the Ontario County Planning Department. Costs of reproduction shall be borne by the person, firm, corporation, or individual requesting said copy. All copies of the map shall be a digital reproduction of the map on file with the Town Clerk of the Town of Gorham. Said digital reproduction shall contain a clause indicating the source of the map as well as a disclaimer indicating that the official zoning map as adopted by the Town is on file in the Office of the Town Clerk.
- C. Changes made in zoning district boundaries or other features portrayed on the zoning map under the provisions set forth herein shall be permanently affixed to the zoning map promptly after the amendment has been approved by the Town Board and shall convey information as to the date and nature of the change. No amendment of any zoning map nor to this Local Law that involves matters portrayed on any zoning map shall become effective until passage and filing of a local law making such amendment and until such change and entry has been made on said zoning map and has been attested by and filed with the Town Clerk.

### **31.3.7 INTERPRETATION OF BOUNDARIES**

- A. Designation of District Boundaries  
The district boundary lines are intended generally to follow the center lines of streets, the center lines of railroads rights-of-way, existing lot lines, the center line of streams and other waterways (except as provided in paragraph C. below), or municipal boundary lines, all as shown on the Zoning Map; where a district boundary line does not follow such a line, its position is shown on said Zoning Map by a specific dimension expressing its distance in feet from a street line or other boundary line as indicated.
- B. Where a district boundary divides a lot, the location of any such boundary, unless the same is indicated by dimensions shown on the Zoning Map, shall be determined by the use of the map scale shown thereon.
- C. District Boundary along Canandaigua Lake  
Zoning districts adjoining Canandaigua Lake shall extend 1500 feet into the Lake, measured from the mean high water mark.

## ARTICLE 4 - SCHEDULE OF REGULATIONS

### 31.4.1 FARMLAND PRIORITY DISTRICT (FP)

#### A. Purpose

The intent of the Farmland Priority District is to support and promote agricultural operations, preserve lands that are most suitable for farm uses and activities, reduce land use conflicts with non-agricultural uses, and maintain the Town's rural character. Farming and agricultural operations are the preferred land use in this District and shall be encouraged above all others. Non-agricultural or non-agriculturally-supportive uses are secondary. New development should be located and designed in a way that has the least negative impact to farms, agricultural operations, and prime farm lands. New buildings and site designs should reflect and complement the rural character and natural environment of the District. Agricultural-supportive businesses, including home-based businesses, will be encouraged, whether as a stand-alone business or as part of an existing agriculture operation.

#### B. Agriculture Impact Planning

Agriculture Impact Planning is intended to ensure that non-agricultural development or uses do not interfere with agricultural operations on nearby lands. In this District, if an applicant submits a subdivision or site plan for a non-agricultural development and/or non-agricultural use of land, the applicant must prepare a whole farm parcel plan for review and approval by the Planning Board. The whole farm parcel plan shall depict the proposed development and or subdivision as well as its relationship to the remainder of the site and to adjacent lands. The Planning Board will review the whole farm operation to ensure that current and future development of the land will not compromise the agricultural or natural resources of the site. In advance of the sketch plan submission, applicants are required to discuss potential plans or ideas with the Planning Board and may be referred to the Agriculture Committee and/or the Conservation Board for input.

The plan shall serve as the starting point for and guide future development and conservation practices on the affected parcel. A copy of the sketch plan shall be provided to the Zoning Officer prior to the submission of any formal subdivision or site plans and may be referred to during a formal review. See also Design Guidelines, Section 5, for additional guidance on desired residential development practices.

##### 1. Plan Information

Identified resources on the plan may rely on published or owner-based knowledge of the agricultural or natural resources of the site and should be included in the sketch plan. Copies of available mapping are available at town hall and on the town's website. These resources include, but are not limited to:

- a. Prime farm soils
- b. Soils of statewide importance
- c. Farm infrastructure (above/below ground drainage, drain ditches, farm access roads, including curb cuts, irrigation lines, etc.)
- d. Hedgerows or woodlots
- e. Wetlands, ponds, streams, and other water features
- f. Location of lands proposed for immediate subdivision, as well as conceptual location for future subdivisions, if any
- g. Steep slopes (15% or greater)

##### 2. Plan Review

The Planning Board will review the proposed plan to assess potential impacts to agricultural lands as well as open space resources. Agricultural considerations will address the extent to which planned development will result in disruption of drainage patterns, loss of prime soils, nuisance concerns, wind patterns, farm operations efficiency and other farm operation impacts. To better understand agricultural impacts, the Planning Board shall refer the plan to the Town’s Agriculture Committee for review and comment. Open space considerations will address impacts to rural character, viewsheds, hedgerows and contiguous blocks of agricultural lands. To better understand open space resources, the Planning Board shall refer the plan to the Town’s Conservation Board for review and comment.

The Planning Board shall consider the following when reviewing the plan:

- a. Comments provided by the Agriculture Committee and the Conservation Board, if any. The comments shall be submitted to the Planning Board within 30 days of the sketch plan referral.
- b. The intent of these regulations, as described in subsection A above.
- c. Consistent lot configuration. Newly created lots should not adversely impact agricultural operations of adjoining properties. Lot configurations of subdivisions should maintain consistent setbacks to ensure operational efficiency of adjacent farming operations. However, irregular lot configurations will be acceptable in instances where they are needed to minimize impacts to agricultural activity.

C. Dimensional Requirements

- 1. The following dimensional requirements apply to uses in the Farmland Priority District, unless more restrictive requirements are specified in the summary table referenced in C.2 of this section or elsewhere in the regulations.

Minimum Lot Area

Residential Lots with public sewer	15,000 sq. ft (2 acre max)
Residential Lots without public sewer:	2 acres
Residential Lots with Private Animal Husbandry	3 acres
Non-Residential Lots	2 acres

Minimum Lot Width and Lot Frontage:

Lots with public sewer	100
Lots without public sewer	200

Minimum Lot Depth:

Lots with public sewer	150
Lots without public sewer	200

Minimum Setbacks from property lines

Front (principal and accessory buildings):	Feet
Collector Roads	50
Local Roads	35
Rear:	
Principal buildings	30
Accessory buildings	10
Side:	

Principal buildings	30
Accessory buildings	10
<u>Maximum Building Height</u>	
Stories	2 ½
Feet	35
<u>Maximum Lot Coverage</u>	30%
<u>Minimum Green Space</u>	25%

**Note:** Farm structures (e.g. barns and silos) may exceed maximum building height.

2. Use and Dimensional Requirement Tables  
Summary tables are attached at the end of the chapter.

D. Uses Permitted by Right

1. Agricultural uses
  - a. Agriculture
  - b. Animal Husbandry, Commercial and Private (see Article 7, Section 31.7.20)
    - i. Minimum lot size is Seven (7) acres for Commercial and Three (3) acres for Private
    - ii. Minimum lot width, frontage, and lot depth is Three Hundred (300) feet
  - c. Greenhouse, Commercial
  - d. Winery (See Chapter 41 of the Town of Gorham municipal code (Open Containers Local Law)).
  - e. Brewery (See Chapter 41 of the Town of Gorham municipal code (Open Containers Local Law)).
  - f. Additional Single Family dwellings may be permitted on an active farm within the Farmland Priority District if the standards below are met.
    - i. The parcel is a minimum of twenty (20) acres.
    - ii. The property is a part of an active farming operation.
    - iii. Must be located in such a manner that a conforming residential lot may be divided from the parent parcel.
    - iv. Submit adequacy of water supply and sewer disposal.
2. Residential Uses
  - a. Bed and Breakfast.
  - b. Dwelling, Seasonal with the following provisions.
    - i. Such dwelling shall be no smaller than 400 square feet.
    - ii. Any such dwelling that contains less than 950 square feet and/or does not meet the Uniform Code requirements for a year-round single family dwelling shall require a minimum lot size of ten (10) acres and a minimum setback of 20 feet from all property lines.
    - iii. Seasonal dwellings shall be subject to site plan review by the Planning Board.
    - iv. Trees shall be planted no closer than 30 feet, and shrubs, fences, and hedges shall be planted no closer than 10 feet from a property line abutting an adjacent agricultural use.
  - c. Dwelling, Single-Family.
    - i. A single-family dwelling may be established on a lot larger than the maximum lot sizes specified herein, provided that lot existed prior to the adoption of this code.
    - ii. Any new subdivided lot that is intended for residential use only, shall be no larger than the maximum lot sizes specified herein. Newly subdivided residential lots can exceed the specified maximum lots sizes specified herein if they include a small scale

- farm use to ensure that agriculture continues to be the primary land use within this district.
- iii. Flexible lot sizes. An applicant may propose a new residential lot that exceeds the specified maximum lot size for this District, subject to the subdivision review process, as outlined in Chapter 32 of the Town Code. In addition to addressing the various criteria and considerations found in the subdivision review process, the applicant shall demonstrate that less than 20 percent of a proposed new lot contains prime agricultural soils, and/or soils of statewide significance.
  - iv. New lots in a multi-lot subdivision shall be contiguous, unless the applicant can demonstrate that non-contiguous lots are in the best interest of preserving farmland and/or natural features on the parent parcel. Up to three groupings of contiguous lots, with the groupings not necessarily contiguous to one another, may be permitted on a parent parcel in the interest of preserving farmland and/or natural features.
  - v. Road frontage development. If six (6) or more residential lots are proposed, they shall be arranged in a manner such that no more than four lots are adjacent to the existing road right-of-way. This necessitates the creation of a new private or public road perpendicular to the existing roadway to provide access to the proposed lots. Agriculture Impact Planning, as described in §4.1B, requires an applicant to submit a sketch plan for the intended use of the entire parent parcel. The Agriculture Impact Planning process ensures that the six-lot threshold identified in this provision is not circumvented by a series of subdivisions containing five or fewer lots.
  - vi. The minimum required lot width may be waived by the Planning Board if the applicant demonstrates that an irregularly shaped lot with a frontage just wide enough for a driveway and a wider rear section will minimize negative impacts to existing farmland and/or preserve views of farmland and open space.
  - vii. Trees shall be planted no closer than 30 feet, and shrubs, fences, and hedges shall be planted no closer than 10 feet, from a property line abutting an adjacent agricultural use. See also Design Guidelines, section 5, for additional guidance in desired residential development.
- d. Dwelling, Two-Family
    - i. Minimum side setback shall be 40 feet for principal buildings and 20 feet for accessory buildings
3. Commercial and Public Uses
    - a. Farmer's Market
    - b. School, Private
    - c. School, Public
  4. Accessory Uses
    - a. Private Breeding Facility
    - b. Private Solar Collection Systems
    - c. Residential Egg Laying
  5. Farm Use, Small-Scale
    - a. Animal Husbandry, Private (See Article 7, Section 31.7.20)
      - i. Minimum lot size is 3 acres
      - ii. Minimum lot width/frontage and lot depth is 300 feet
  6. Bed and Breakfast
    - a. Customary Agricultural Operation
  7. Farm Labor Housing
  8. Farm Market

9. Farm Stand
  10. Greenhouse, Private
  11. Home Business, Class A
  12. Swimming Pool, Private
  13. Building, Accessory, including Residential Garage, subject to the following provisions:
    - a. Site plan review shall be required for any structure larger than 800 square feet.
    - b. Such buildings, when employed in connection with an agricultural use, except for the housing of livestock, shall be exempted from site plan review when less than 5,000 square feet in floor area in accordance with all the conditions and requirements of Article 10 Section 31.10.6. herein (site plan review).
    - c. Farm structures (e.g. silos and barns) must be setback from side and rear lot lines a distance equaling the height of the structure.
- E. Uses requiring a Special Use Permit.  
Please refer to Article 9 of this Chapter for additional criteria and process related to these special uses.
1. Agricultural Uses
    - a. Winery
      - i. Minimum lot size is 3 acres
  2. Commercial and Public Uses
    - a. Airport, Private
    - b. Building, Public
    - c. Campground
    - d. Cemetery
    - e. Inside Storage (Boats, etc.)
    - f. Veterinary Clinic/Animal Hospital
    - g. Place of Worship
    - h. Commercial Breeding Facility
    - i. Kennel, including Boarding Kennel
  3. Industrial Uses
    - a. Wind Energy Conversion System (WECS), Commercial
    - b. Solar Farm
  4. Accessory Uses
    - a. Daycare, Family Home
    - b. Dwelling Unit, Accessory
    - c. Home Business, Class B
- F. Maximum Density Permitted.
1. Land use in this district is intended to support agriculture activities and limit the amount of residential development. Allowable lot density for newly created lots shall be dependent on the proposed use of the land.
    - a. Residential uses: The maximum number of residential lots that can be subdivided in this district shall be based on the size of the parent parcel (original parcel) at the time of the adoption of this ordinance. All density and/or calculation of permitted subdivisions shall be based on the lot as identified by the Tax Map of the Town of Gorham dated \_\_\_\_\_.
      - i. The maximum number of residential lots that can be subdivided shall be based on a basic ratio of 1 subdivided lot per 50 acres. The size of subdivided lots shall be in

accordance with the dimensional requirements set forth in part C of this section. The following table provided a breakdown:

Parent Parcel	Maximum # of new lots that can be created through Subdivision
4 acres to Under 50	1
50-99	2
100-149	3
150-199	4
200-249	5
250+	6

- ii. The maximum size of newly subdivided residential lots shall be in accordance with the dimensional requirements hereinof this local law.
- iii. These density requirements may be waived if the applicant is proposing a Conservation Subdivision Development, per Section 31.7.8 of this local law.
- b. Non-residential uses: Subdivisions of land for non-residential uses that contain or support agricultural activities shall not be limited in density or size as long as the resultant lots conform with the dimensional criteria of this local law.

**31.4.2 RESIDENTIAL R-1 DISTRICT (R-1)**

**A. Purpose**

The intent of the R-1 District is to promote the preservation of existing residential neighborhoods and homes, whether seasonal or year-round use, and protect the character and visual appeal of the neighborhoods from incompatible development. Residential lots in this district are typically smaller along the lakeshore, reflecting the traditional nature of the neighborhood to support smaller scale seasonal residences, cottages, or cottage-style residences. New development shall be designed and constructed to be harmonious with adjacent neighborhoods or homes in areas that are served with public utilities. In addition to preserving the character of the neighborhoods and homes, protecting lake water quality through effective stormwater management is critical from design through construction and beyond.

**B. Dimensional requirements**

- 1. The following dimensional requirements apply to all uses in the R-1 District, unless more restrictive requirements are specified in the local law.

<b>Minimum Lot Area</b>	
Lots with public sewer	15,000 s.f. (1 acre max)
Lots without public sewer:	
Percolation rates <60 minutes/inch:	2.5 acres
Percolation rates >=60 minutes/inch:	5.0 acres
<b>Minimum Frontage:</b>	
Lots with public sewer	100
Lots without public sewer	200
<b>Minimum Width:</b>	
Lots with public sewer	100

Lots without public sewer	200
Minimum Depth:	
Lots with public sewer	150
Lots without public sewer	200

Minimum Setbacks from property lines	
Front (principal and accessory buildings):	
Collector Roads	50
Local Roads	35
Rear:	
Principal buildings	30
Accessory buildings	10
Side:	
Principal buildings	15
Accessory buildings	10
Maximum Building Height	
Stories	2 1/2
Feet	35
Maximum Lot Coverage	30%
Minimum Green Space	25%

2. Dimensional Requirements Tables are contained at the end of this chapter.

C. Uses Permitted By Right

1. Agricultural Uses

- a. Agriculture
- b. Animal Husbandry, Commercial and Private within an Ontario County Agriculture District (see Article 7, Section 31.7.20), (such uses are not allowed unless the property is contained within an Ontario County Agricultural District).
  - i. Minimum lot size is 7 acres for Commercial and 3 acres for Private
  - ii. Minimum lot width, frontage and lot depth is 300 feet for each.

2. Residential Uses

- a. Dwelling, Single-Family
- b. Dwelling, Two-Family

3. Commercial and Public Uses

- a. Building, Public
- b. Park or Recreation Areas, Public
- c. School, Public

D. Accessory Uses & Buildings

- 1. Animal Husbandry, Private within an County Agricultural District (such uses are not allowed unless the property is contained within an Ontario County Agricultural District).
- 2. Building, Accessory, including Residential Garage, subject to the following provisions:
  - a. Site plan review shall be required for any structure larger than 800 square feet.
- 3. Farm Stand
- 4. Private Solar Collection Systems
- 5. Residential Egg Laying

- 6. Swimming Pool, Private
  - 7. Structure, Accessory, including Residential Garage, subject to the following provisions:
    - a. Site plan review shall be required for any structure larger than 800 square feet.
- E. Uses Requiring Special Use Permit. Additional requirements for special uses are outlined in Article 9.
- 1. Agricultural Uses
    - a. Greenhouse, Commercial
    - b. Winery
      - i. Minimum lot size is Three (3) acres
  - 2. Residential Uses
    - a. Bed and Breakfast
    - b. Dwelling, Multi-Family
  - 3. Commercial and Public Uses
    - a. Cemetery
    - b. Daycare Facility
    - c. Place of Worship
  - 4. Industrial Uses
    - a. Public Utilities (excluding telecommunications)
  - 5. Accessory Uses
    - a. Farm Use, Small-Scale
    - b. Bed and Breakfast
    - c. Customary Agricultural Operation
    - d. Daycare, Family Home
    - e. Dwelling Unit, Accessory
    - f. Greenhouse, Private
    - g. Home Business, Class A
    - h. Wind Energy Conversion System (WECS), Residential

**31.4.3 HAMLET RESIDENTIAL DISTRICT (HR)**

**A. Purpose**

The purpose of the Hamlet Residential District is to encourage a mix of residential uses and styles that are harmonious with and reflect the existing character of the hamlet. Homes typically include various architectural details and have structural and site elements that promote neighborhood interaction, such as porches and sidewalks. Lots tend to vary in size and dimension, yet retain the compact, walkable environment found in the hamlet. Although new development is encouraged, infill development and historic preservation of existing homes is preferred.

**B. Dimensional requirements**

- 1. The following dimensional requirements apply to all uses in the HR District, unless more restrictive requirements are specified in these regulations.

Minimum Lot Area	
Lots with public sewer	10,000 s.f.
Lots without public sewer:	
Percolation rates <60 minutes/inch:	2.5 acres
Percolation rates >=60 minutes/inch:	5 acres

Minimum Frontage (feet)	Feet
Lots with public sewer	90
Lots without public sewer	200
Minimum Width (feet)	
Lots with public sewer	90
Lots without public sewer	200
Minimum Depth (feet)	
Lots with public sewer	80
Lots without public sewer	200
Minimum Setbacks from property lines	Feet
Front (principal and accessory buildings):	
Collector Roads	25
Local Roads	15
Rear:	
Principal buildings	25
Accessory buildings	10
Side:	
Principal buildings	15
Accessory buildings	10
Maximum Building Height	
Stories	2 1/2
Feet	35
Maximum Lot Coverage	30%
Minimum Green Space	20%

### C. Uses Permitted By Right

1. Agricultural Uses
  - a. Agriculture
  - b. Animal Husbandry, Commercial within an Ontario County Agricultural District (see Article 7, Section 31.7.20), (such uses are not allowed unless the property is contained within an Ontario County Agricultural District)
    - i. Minimum lot size is 7 acres for Commercial
    - ii. Minimum lot width, frontage and lot depth is 300 feet for each.
2. Residential Uses
  - a. Dwelling, Single-Family
  - b. Dwelling, Two-Family
3. Commercial and Public Uses
  - a. Building, Public
  - b. Park or Recreation Areas, Public
4. Accessory Uses
  - a. Animal Husbandry Private within an Ontario County Agricultural District, (such uses are not allowed unless the property is contained within an Ontario County Agricultural District)
    - i. Minimum lot size is 3 acres for Private
    - ii. Minimum lot width, frontage, and lot depth is 300 feet for each.
  - b. Building, Accessory; including Residential Garage, subject to the following provisions:
    - i. Site plan review shall be required for any structure larger than 800 square feet.

- c. Farm structures (e.g. silos and barns) must be located within an Ontario County Agricultural District and setback from side and rear lot lines a distance equaling the height of the structure.
- d. Farm Stand
- e. Private Solar Collection Systems
- f. Residential Egg Laying
- g. Swimming Pool, Private

**D. Uses Requiring Special Use Permit**

- 1. Residential Uses
  - a. Dwelling, Multi-Family
- 2. Commercial and Public Uses
  - a. Cemetery
  - b. Cultural Use Facility, Museum or Theater
  - c. Daycare Facility
  - d. Place of Worship
  - e. Residential Care Facility
  - f. School, Private
  - g. School, Public
- 3. Industrial Uses
  - a. Public Utilities (excluding telecommunications)
- 4. Accessory Uses
  - a. Farm Use, Small-Scale
  - b. Bed and Breakfast
  - c. Daycare, Family Home
  - d. Dwelling Unit, Accessory
  - e. Greenhouse, Private
  - f. Home Business, Class A
  - g. Wind Energy Conversion System (WECS), Residential

**31.4.4 RURAL RESIDENTIAL DISTRICT (RR)**

**A. Purpose**

The purpose of the Rural Residential District is to provide a transitional area for low-density residential development between agricultural lands and more dense development typically seen adjacent to the hamlets or lakeshore. Residential dwellings constructed within this district should be sited and constructed to minimize disturbance to adjacent farmland and operations, ensure compatibility with the rural character of the Town, and protect valuable natural resources. Ensuring lake water quality is not impacted through effective stormwater management is critical from design through construction and beyond, especially for areas within the Canandaigua Lake Watershed.

**B. Dimensional requirements**

The following dimensional requirements apply to all uses in the RR District, unless more restrictive requirements are specified in these regulations.

Minimum Lot Area	
Lots with public sewer	1 acre

	(2 acre maximum)
Lots without public sewer:	
Percolation rates <60 minutes/inch:	2 acres
Percolation rates >=60 minutes/inch:	5 acres
Minimum Frontage / Frontage (feet)	200
Minimum Depth (feet)	200
Minimum Setbacks from property lines (feet)	
Front (principal and accessory buildings):	
Collector Roads	50
Local Roads	35
Rear:	
Principal buildings	30
Accessory buildings	10
Side:	
Principal buildings	30
Accessory buildings	10
Maximum Building Height	
Stories	2 1/2
Feet	35
Maximum Lot Coverage	30%
Minimum Green Space	25%

C. Uses Permitted by Right

1. Agricultural Uses
  - a. Agriculture
  - b. Animal Husbandry, Commercial and Private (see Article 7 Section 31.7.20)
    - i. Minimum lot size is 7 acres for Commercial and 3 acres for Private
    - ii. Minimum lot width, frontage ,and lot depth is 300 feet for each.
  - c. Greenhouse, Commercial
2. Residential Uses
  - a. Bed and Breakfast
  - b. Dwelling, Seasonal
  - c. Dwelling, Single-Family
  - d. Dwelling, Two-Family
3. Commercial and Public Uses
  - a. School, Private
  - b. School, Public
4. Accessory Uses
  - a. Farm Use, Small-Scale
  - b. Animal Husbandry, Private (see Article 7 Section 31.20)
    - i. Minimum lot size is 7 acres for Commercial and 3 acres for Private
    - ii. Minimum lot width/frontage and lot depth is 300 feet
  - c. Bed and Breakfast
  - d. Building, Accessory; including Residential Garage subject to the following provisions:
    - i. Site plan review shall be required for any structure larger than 800 square feet
  - e. Customary Agricultural Operation
  - f. Dwelling, Secondary Single Family

- g. Farm Stand
  - h. Home Business, Class A
  - i. Private Solar Collection Systems
  - j. Residential Egg Laying
  - k. Swimming Pool, Private
  - l. Private Breeding Facility
- D. Uses Requiring Special Use Permit
1. Agricultural Uses
    - a. Winery
  2. Residential Uses
    - a. Dwelling, Multi-Family
  3. Commercial and Public Uses
    - a. Building, Public
    - b. Campground
    - c. Cemetery
    - d. Daycare Facility
    - e. Inside Storage (Boats, etc.)
    - f. Veterinary Clinic/Animal Hospital
    - g. Kennel
    - h. Place of Worship
    - i. Industrial Uses
    - j. Public Utilities (excluding telecommunications)
  4. Accessory Uses
    - a. Daycare, Family Home
    - b. Dwelling Unit, Accessory
    - c. Farm Market
    - d. Greenhouse, Private
    - e. Home Business, Class B
    - f. Wind Energy Conversion System (WECS), Commercial
    - g. WECS, Residential
    - h. Kennel, including Boarding Kennel
    - i. Commercial Breeding Facility

### **31.4.5 HAMLET COMMERCIAL DISTRICT (HC)**

#### **A. Purpose**

The purpose of this district is to provide for business development in ‘downtown’ commercial areas in the hamlets of Gorham and Crystal Beach that are scaled to predominantly serve the local resident populations and surrounding residential neighborhoods and secondarily draw a small amount of customers from non-local, transient vehicular traffic, and to provide residential housing opportunities for people, business owners, and others that do not want to own homes. The types and scale of commercial uses allowed are intended to primarily serve the daily needs of the local community, including retail, professional offices, personal and professional services, public and semi-public uses, and similar complimentary uses. The goal of this district is to create neighborhood-scale commercial and retail activity where flexibility is permitted to accommodate a mix of uses within the district as well as within individual lots. In accordance with the town’s design guidelines, the ground level of buildings are to be reserved primarily for commercial and business uses with residential uses permitted above the first floor. The development and operations

of businesses should be scaled to pedestrians and minimal vehicular traffic, ensure the character of adjacent residential neighborhoods are preserved, and that residential uses upstairs of the first floor commercial uses can co-exist in harmony with them and make the residences desirable places to live with easy access to services.

**B. Dimensional Requirements**

1. The following dimensional requirements apply to uses in the HC District, unless more restrictive requirements are specified in the summary tables referenced in D.2 of this section or elsewhere in the regulations.

<u>Minimum Lot Area</u>	None
<u>Minimum Frontage (feet)</u>	None
<u>Minimum Lot Width (feet)</u>	None
<u>Minimum Lot Depth (feet)</u>	None
<u>Minimum setbacks from property lines (feet)</u>	
Front	
Principal	0 ft.
Accessory	20 ft.
Rear	
Principal	20 ft.
Accessory	10 ft.
Side	
Principal	0 ft.
Accessory	10 ft.
<u>Maximum Building Height</u>	
Stories	3
Feet	35
<u>Maximum Lot Coverage</u>	80%

2. Use and Dimensional Requirements Tables

Summary Tables are included at the end of this chapter.

**C. Uses Permitted By Right**

1. Commercial and Public Uses
  - a. Building, Mixed-Use
  - b. Building, Office or Office Professional
  - c. Building, Public
  - d. Car Wash
  - e. Convenience Store
  - f. Daycare Facility
  - g. Dry-Cleaning Facility or Outlet
  - h. Farmer's Market

- i. Hotel / Motel
  - j. Inn
  - k. Laundry, Self-Serve
  - l. Motor Vehicle Salesroom
  - m. Motor Vehicle Service Station
  - n. Outpatient Health Center
  - o. Park or Recreation Areas, Public
  - p. Parking Lot, Commercial
  - q. Recreation, Commercial
  - r. Restaurant
  - s. Restaurant, Fast Food
  - t. Retail, Goods and Services
  - u. Retail, Shopping Center
2. Dwelling Units: One or more dwelling units in combination with other uses permitted by right shall be permitted only in multi-story buildings and then only on the second and/or third stories of such building, as applicable, provided that 1.5 off street parking spaces are provided on the property per dwelling unit. The minimum lot size area, minimum lot width, minimum setbacks, maximum principal building height and building coverage on lot for this permitted use shall be governed by the regulations governing the other permitted use the dwelling unit or units will be in combination with.
3. Accessory Uses
- a. Building, Accessory; including Residential Garage
  - b. Private Solar Collection Systems
- D. Uses Requiring a Special Use Permit
1. Agricultural Uses
- a. Greenhouse, Commercial
  - b. Winery
2. Commercial and Public Uses
- a. Brewery
  - b. Clubhouse (Private or Membership)
  - c. Cultural Use Facility, Museum or Theater
  - d. Distillery
  - e. Garden Center
  - f. Self Storage Facility
  - g. Veterinary Clinic/Animal Hospital
3. Industrial Uses
- a. Contractor's Yard
  - b. Public Utilities (excluding telecommunications)
4. Accessory Uses
- a. Drive-Through Facility
  - b. Ground Floor Dwelling Unit meeting the requirements of Article 9, Section 31.9.20 herein
  - c. Wind Energy Conversion System (WECS), Commercial
  - d. Wind Energy Conversion System (WECS), Residential
- E. Multiple uses permitted

Multiple uses may be permitted upon a single lot, or in a single building, subject to Site Plan Review.

F. Site Plan Required

A site plan review and approval pursuant to Article 10 herein shall be required for all new proposed buildings, uses or expansions thereof within the HC Hamlet Commercial District. Except for residential uses, the Planning Board shall require off-street parking only where on street parking is either not provided or is not adequate for the proposed use or expansion thereof. Further, during the review of said site plan, the Planning Board shall ensure that the road frontage access, proposed setbacks, and other features of the site plan are adequate to provide a safe, attractive and healthy downtown atmosphere. In addition, the Planning Board shall consider the need and may require provision of a landscape or other buffer between any proposed use in this district and adjacent residential zoned property to provide visual and/or sound separation between the adjoining properties.

**31.4.6 GENERAL BUSINESS DISTRICT (GB)**

A. Purpose

This district provides locations for business development that complements the Town’s rural character while providing valuable economic development opportunities. Businesses are primarily oriented towards general services and non-franchise retail. The design of businesses includes amenities and features that are community-scaled and enhance or reinforce the connections between the building, site, and street.

B. Dimensional Requirements

1. The following dimensional requirements apply to uses in the GB District, unless more restrictive requirements are specified in the summary tables referenced in B.2 of this section or elsewhere in the regulations.

<u>Minimum Lot Size</u>	
Lots with public sewer	1 acre
Lots without public sewer:	
Percolation rates <60 minutes/inch:	2.5 acres
Percolation rates >=60 minutes/inch:	5 acres
<u>Minimum Frontage (feet)</u>	
	200
<u>Minimum Lot Width / Lot Frontage</u>	
	200
<u>Minimum Lot Depth (feet)</u>	
	100
<u>Minimum setbacks from property lines (feet)</u>	
Front (principal and accessory buildings)	
Collector Roads	50
Local Roads	35
Rear	
Principal buildings	15
Accessory buildings	10
Side	
Principal buildings	30
Accessory buildings	20

<u>Maximum Building Height</u>	
Stories	2 ½
Feet	35
<u>Maximum Lot Coverage</u>	35%
<u>Minimum Green Space</u>	20%

2. Use and Dimensional Requirements Tables  
Summary Tables are included at the end of this chapter.

### C. Uses Permitted By Right

1. General Business Permitted Uses
  - a. Agricultural Uses
  - b. Greenhouse, Commercial
  - c. Winery
2. Commercial and Public Uses
  - a. Building, Mixed-Use
  - b. Building, Office or Office Professional
  - c. Building, Public
  - d. Convenience Store
  - e. Daycare Facility
  - f. Commercial Inside Storage
  - g. Commercial Inside Storage
  - h. Dry-Cleaning Facility or Outlet
  - i. Hotel or Motel
  - j. Motor Vehicle Salesroom
  - k. Outpatient Health Center
  - l. Park or Recreation Areas, Public
  - m. Parking Lot, Commercial
  - n. Recreation, Commercial
  - o. Restaurant
  - p. Restaurant, Fast Food
  - q. Retail, Goods and Services
  - r. Retail, Shopping Center

### D. Accessory Uses

1. Building, Accessory; including Residential Garage
2. Private Solar Collection Systems

### E. Uses Requiring a Special Use Permit

1. Commercial and Public Uses
  - a. Boat Launch or Boat Launching Facility
  - b. Brewery
  - c. Car Wash
  - d. Clubhouse (Private or Membership)
  - e. Cultural Use Facility, Museum or Theater
  - f. Distillery
  - g. Dry Cleaning
  - h. Funeral Home (Stand-alone)

- i. Garden Center
  - j. Gasoline Station
  - k. Inn
  - l. Laundry, Self-Serve
  - m. Marina
  - n. Motor Vehicle Service Station
  - o. Retreat or Conference Center
  - p. Self Storage Facility
  - q. Veterinary Clinic/Animal Hospital
  - 2. Industrial Uses
    - a. Contractor's Yard
    - b. Public Utilities (excluding telecommunications)
    - c. Warehouse, Wholesale, or Distribution Center
  - 3. Accessory Uses
    - a. Drive-Through Facility
    - b. Dwelling Unit, Accessory
    - c. Wind Energy Conversion System (WECS), Commercial
    - d. Wind Energy Conversion System (WECS), Residential
- F. Setback & Buffering from Adjacent Residential Property  
 During site plan review, all permitted, accessory, and specially permitted uses shall include provisions for adequate visual, noise, odor, and vibration protection for adjacent residential property. Site plans shall include adequate fence and/or vegetative separation to protect the peace and tranquility of any adjacent residential property. All new or existing special permit uses, and any expansion thereof, shall also be subject to the requirements of Article 9 Section 31.9.1 L.
- G. Multiple Uses Permitted  
 Multiple uses may be permitted upon a single lot, or in a single building, subject to Site Plan Review.
- H. Site Plan Required  
 A site plan review and approval pursuant to Article 10 herein shall be required for all new proposed buildings, uses, or expansions thereof within the GB-General Business District. During the review of said site plan, the Planning Board shall ensure that the road frontage, access, proposed setbacks, parking, and other features of the site plan are adequate to provide a safe, attractive, and healthy commercial atmosphere.

### **31.4.7 INDUSTRIAL DISTRICT (I)**

- A. Purpose  
 The purpose of the Industrial District is to encourage, where appropriate, the development of sites and facilities that provide a range of industrial uses including manufacturing operations, research and development, and warehousing or commercial businesses that require significant areas for outdoor storage. Developments in this district are expected to be designed and employ performance standards to minimize visual and environmental impacts to adjacent, non-industrial areas and uses.
- B. Dimensional Requirements

1. The following dimensional requirements apply to uses in the I District, unless more restrictive requirements are specified in the summary tables referenced in B.2 of this section or elsewhere in the regulations.

<u>Minimum Lot Area</u>	
Lots with public sewer	20,000 sq. ft.
Lots without public sewer	2.5 acre
<u>Minimum Lot Width/ Lot Width</u>	<u>Feet</u>
Lots without public sewer	125
Lots with public sewer	100
<u>Minimum Lot Depth</u>	<u>Feet</u>
Lots without public sewer	200
Lots with public sewer	200
<u>Minimum Setbacks from property lines</u>	<u>Feet</u>
Front (principal and accessory buildings):	
Collector Roads	45
Local Roads	45
Rear (principal and accessory buildings)	45
Side (principal and accessory buildings)	25
<u>Maximum Building Height</u>	
Stories	4
Feet	60
<u>Maximum Lot Coverage</u>	35%
<u>Minimum Green Space</u>	20%

2. Use and Dimensional Requirements Tables  
Summary Tables are included at the end of this chapter.

C. Uses Permitted By Right

1. Agricultural Uses
  - a. Agriculture
  - b. Animal Husbandry, Commercial (Article 7 Section 31.7.20)
  - c. Greenhouse, Commercial
  - d. Winery
2. Commercial and Public Uses
  - a. Building, Office or Office Professional
  - b. Building, Public
  - c. Commercial Inside Storage
  - d. Dry-Cleaning Facility or Outlet
  - e. Farmer's Market
  - f. Recreation, Commercial
  - g. Restaurant
  - h. Building, Mixed-Use
  - i. Retail, Goods and Services
3. Industrial Uses
  - a. Contractor's Yard

- b. Manufacturing, Light
  - c. Public Utilities (excluding telecommunications)
  - d. Warehouse, Wholesale, or Distribution Center
4. Accessory Uses
- a. Farm Use, Small Scale
  - b. Animal Husbandry, Private (See Article 7, Section 31.7.20)
  - c. Building Accessory, including Residential Garage
  - d. Private Solar Collection Systems
- D. Uses Requiring a Special Use Permit
1. Solar Farm

E. Site Plan Required

A site plan review and approval pursuant to Article 10 herein shall be required for all new proposed buildings, uses, or expansions thereof within the I-Industrial District. During the review of said site plan, the Planning Board shall ensure that the road frontage, access, proposed setbacks, parking, and other features of the site plan are adequate to provide a safe, attractive, and healthy Industrial atmosphere. In addition, the Planning Board shall consider the need and may require provision of a landscape or other buffer between any proposed use in this district and adjacent residential zoned property to provide visual and/or sound separation between the adjoining properties.

### **31.4.8 PLANNED DEVELOPMENT DISTRICT (PDD )**

A. Purpose

The purpose of the Planned Development District (PDD) is to provide an area and a set of procedures for the development of a group of parcels in a flexible manner in terms of land use and design where the objectives and goals of the Town's Zoning, Comprehensive Plan, and other land use/planning documents can be achieved. A combination of land uses (residential, commercial, light industrial, and/or recreational) may be utilized to provide for the most appropriate, efficient, and environmentally-sound use of designated land within the Town based on the existing characteristics of the site. The development should substantially benefit the Town in a manner not otherwise available through development under the Town's existing land use regulations; creative planning and architectural concepts or economies of scale maybe used by the developer of the PDD without departing from the purpose and objectives of this Local Law. It is not the intention of this local law to have rezoning to PDD be used as a way to circumvent the zoning use protections afforded any occupants of the property and/or occupants or owners of adjoining properties.

B. Objectives

In order to carry out the purpose of this Article, a Planned Development shall achieve at least the following objectives:

1. Incorporate a coordinated development plan for all contiguous land within the Planned Development District.
2. Provide open space as an integral part of the plan. Open space shall consist of active or passive recreational lands, agricultural fields, environmental features, or other similar spaces that preserve open space and maintain the rural character of the Town while allowing sufficient density and development to support the extension of municipal infrastructure, if needed by the development.
3. Provide for the convenient location of commercial and service areas.

4. Preserve existing trees and vegetation, outstanding natural topography and sensitive environmental features, including those outlined in this Local Law. These features should be integrated into the overall development plan and used to reduce visual impacts both within and outside of the District.
5. Make creative use of land and related physical development while minimizing visual impacts to and of Canandaigua Lake and any other documented viewsheds in the Town.
6. Utilize compact development patterns or traditional neighborhood development to make efficient use of land which will result in smaller networks of utilities and streets, thereby lowering costs for construction, maintenance and housing.
7. Develop the District in a manner that is in harmony with the objectives of the Town Comprehensive Plan and blends seamlessly with adjoining properties or neighborhoods. All development should reference the Town Design Guidelines, specifically the hamlet residential section for residential development and the commercial section for commercial and light industrial development, as well as other pertinent sections of this Local Law in regards to lighting, landscaping/buffering, parking, etc.

C. Location

New development pursuant to this Section shall be located within areas designated for Planned Development on the Zoning Map.

D. Uses Permitted by Right

The following uses are permitted “by right” in the PDD:

1. Farm uses and related uses
2. One (1) single-family residence may be constructed on an existing lot of record. Additional housing will be permitted provided that an incentive is offered to the Town in accordance with Section 31.8.13 (Incentive Zoning).
3. Accessory Uses
  - a. Private Solar Collection Systems

E. Uses Requiring a Special Permit

1. Types of Uses

The Town Board may authorize the following types of development within the PDD:

- a. Housing developments that may range from single-family to multifamily dwellings. Development of commercial services to serve the needs of residents shall be provided in conjunction with residential development. In addition, housing development shall require an incentive to the Town in accordance with Section 31.8.13 Incentive Zoning. A minimum of 25 percent of the total residential development proposed in the Zoning District is required to be made available to low to middle income groups in the Town as workforce and starter/retirement housing.
- b. Commercial or office uses that are permitted by right in the GB General Business District
- c. Public or commercial recreation.
- d. Light Industrial uses that are permitted by right in the (I) Industrial District, provided that all operations, processes and storage are contained within one or more enclosed buildings, and that no noise or odor associated with the industrial use is evident outside the building(s).
- e. Any combination of the above provided that the development is designed to avoid conflicts among uses. Where commercial or industrial uses are proposed, they shall not

constitute more than 20 percent of the total gross floor area in the District and shall be combined with a residential component.

F. Development Standards

1. Minimum size of development: 30 acres
2. Minimum residential density: Sufficient to support the extension of infrastructure (primarily sewer and water service) to the area.
3. Infrastructure improvements shall be sufficient to serve future development within the PDD.
4. The development shall meet the objectives specified in Section B.
5. A minimum of thirty percent (30%) of the total lot or property proposed as part of the project shall be permanent open space in accordance with Section 31.7.12 herein.

G. Procedures

1. General procedures
2. Special use permits for specific Planned Development projects may be approved by the Town Board.
  - a. The applicant shall submit an application for a special use permit to the Town Board. Such application must include a concept plan and may include a preliminary site plan as defined herein.
  - b. The Planning Board shall review the application for a special use permit and make a recommendation to the Town Board.
  - c. Any development within a PDD district shall be strictly in accord with the particular special use permit approved by the Town Board.
3. Applicant. The applicant may be an individual, corporation or a group of individuals or corporations. An application shall be filed by the owner or jointly by the owners of all property included in a project. In the case of multiple ownership, the approved plan shall be binding on all owners.
4. Application for Special Use Permit Approval for a Planned Development. Application for a special use permit for a Planned Development shall be made to the Town Board. Within three (3) days of the determination that a complete application has been received, the Town Board shall refer the application to the Planning Board for a recommendation. The applicant shall furnish basic data pertaining to the boundaries of the proposed development and the existing zoning, topography, drainage and soil conditions and a development plan in sufficient detail as may be required for an understanding of the type, uses and design of the proposed development.
5. Planning Board Recommendations.
  - a. Within 45 days of the determination that a complete application has been received by the Town Board, the Planning Board shall prepare a report to the Town Board containing findings as to:
    - i. The suitability of the tract for the general type of development proposed and the physical characteristics of the land.
    - ii. The relation of the proposed development (i.e. scale, bulk, massing, height, etc.) to surrounding areas, existing and probable future development, including the extension of utilities to adjacent properties and the inter-connection of road access to adjacent properties.
    - iii. The relation to major roads, utilities and other facilities and services.
    - iv. The adequacy of evidence on unified control and suitability of any proposed agreements, contracts, deed restrictions, sureties, dedications, contributions,

- guaranties or other instruments or the need for such instruments or for amendments in those proposed.
- v. The suitability of plans proposed or the desirability of amendments, with reasons therefore.
  - vi. The desirable specific modifications in regulations, based on determinations that such modifications are necessary or justified in the particular case by demonstration that the public purposes of the PDD or other regulations would be met to at least an equivalent degree by proposals of the applicant.
  - vii. Compliance with the Access Management Local Law.
  - viii. Pedestrian circulation (trails, sidewalks, multi-use paths, etc.) and their connectivity, both internally and externally.
  - ix. The impact of the development on existing environmental features, including those specifically regulated in this Local Law.
- b. Based on such findings, the Planning Board shall recommend approval of the Planned Development special use permit as proposed, approval conditioned on specific stated modifications or disapproval, with reasons recorded therefore.
6. Public Hearing on the Application for a Special Use Permit.
    - a. Within 62 days of receipt of the application, the Town Board shall hold a public hearing, after public notice, on the application for special use permit for the proposed development.
    - b. The applicant shall place one (1) sign on the property for which the special use permit is requested. Said sign shall be provided by the Zoning Officer. The sign shall be placed in a location that is easily read from a public street. The sign shall specify the date, time and place of the public hearing and a telephone number to call for more specific information. Such sign shall be placed on the site not less than five (5) days prior to the public hearing and shall be brought to the hearing by the applicant or his designated representative.
    - c. The Town Board shall consider the report and recommendations of the Planning Board and all other comments, reviews and statements pertaining thereto.
  7. Action by the Town Board.
    - a. Within 62 days following the public hearing, the Town Board shall render a decision on the special use permit. The Town Board may approve the special use permit in accord with PDD and other regulations applicable, approve the special use permit with specific modifications, or deny the application.
    - b. If the special use permit is approved, the Town Board shall, in its approving action, approve the proposed development plan as it may have been changed during earlier procedures or indicate required modifications; and such approved development plan, with required modifications, if any, shall be binding in determinations concerning preliminary and final site plans. If modifications are required, the Town Board shall officially state its reasons therefore in the record.
    - c. If the special use permit is approved, the development shall be required to be in accord with final development plans meeting the requirements of these and other regulations, as supplemented or modified by the Town Board in the particular case as part of the approving action, and shall conform to any time or priority limitations established by the Town Board on beginning and completion of the development as a whole or in specified stages.
    - d. At the time of approval of the special use permit, the Town Board shall pass upon the adequacy in form and substance of any agreements, contracts, deed restrictions, sureties

- or other instruments involved; and, before development may proceed, such instruments shall be approved by appropriate officers and agencies.
8. Planning Board action on Approval of Preliminary and Final Site Plans.
    - a. Approval of preliminary and final site plans and reports.
      - i. After a special use permit has been approved for a Planned Development, the applicant shall submit an application to the Planning Board for Site Plan Review as provided for in this Local Law. If the applicant does not submit an application for Site Plan Review within one year following the granting of a special use permit by the Town Board, the special use permit shall no longer be valid.
      - ii. No building permit shall be issued unless the Planning Board has approved the final site plan and accompanying reports for the development as a whole or stages or portions thereof deemed satisfactory in relation to the total development.
      - iii. Approval of preliminary and final site plans and accompanying reports shall be based on substantial compliance with the development plan presented in the application for special use permit, including such specific modifications as were made by the Town Board.
      - iv. Upon approval of final plans and reports, building permits shall be issued in the same manner as for building permits generally, provided that any requirements concerning the order and location in which building permits are to be issued in the particular Planned Development shall be observed. Except as provided below, final plans and reports as approved shall be binding on the applicants and any successors in title so long as PDD zoning applies to the land.
    - b. Changes in approved final plans. Changes in the types of uses within an approved Planned Development shall require approval by the Town Board. Other changes to approved final plans and reports may be approved by the Planning Board only upon findings identical to those required for original approval
    - c. Final site plan approval is an administrative action. No public hearing is required in connection with the review of final plans or changes in approved plans, but the Planning Board may hold hearings as it deems appropriate in compliance with Town Law.
  9. Expiration of time limits on Planned Development Site Plan Approvals.
    - a. If actions required in any approval of a site plan in a PDD are not taken within any time limits set in connection with such approval, the Planning Board shall review the circumstances and prepare a written report specifying the circumstances and recommending that:
      - i. Site plan approval for the entire area be continued with revised time limits;
      - ii. Site plan approval be continued for part of the area, with or without revised time limits;
      - iii. Site plan approval be rescinded; or
      - iv. Other appropriate actions taken.
    - b. Such recommendations shall include proposals for appropriate action in respect to any legal instruments in the case. Such recommendations shall be transmitted to the Town Board.
- H. Lot Size, Maximum Lot Coverage, and Minimum Setback Requirements for Existing Lots of Record.
- Notwithstanding the requirements of any other paragraph in this section, lots in existence at the time of adoption of this local law shall be entitled to have constructed on them a single family residence and/or agricultural buildings and uses. Lot sizes, Maximum Lot Coverage, and

Minimum setbacks shall be required to meet the standards established in the FP Farmland Priority District, as specified in Section 31.4.1 herein. The Planning Board may, during Site Plan Review, modify the setback requirements if and only if the Planning Board finds and specifies setbacks that are more in harmony with setbacks of surrounding existing or proposed development that would function to preserve or enhance neighborhood character.

### **31.4.9 FLOOD PLAIN OVERLAY DISTRICT (FPO)**

#### **A. Purpose**

The intent of the Flood Plain Overlay District is to provide notice of the potential for flooding in designated areas of the Town, minimize public and private loss through adequate review of applications, and promote the wise use of land within and adjacent to flood plains. Floods are natural phenomena which increase in frequency and magnitude due to development. In natural systems, they clear debris from stream channels and replenish topsoil and nutrients to floodplain areas. However, when development encroaches upon floodplains, floods carry off pollutants from lawns, impervious surfaces and on-site sewage disposal systems and may pollute wells and damage property. In general, development in flood plains is discouraged. However, where development is proposed there is to be no net impact to the flood plain, which can be achieved through appropriate design and construction measures.

#### **B. Location**

1. The boundaries of the Flood Plain Overlay District coincide with the boundaries of the areas of special flood hazard within the Town of Gorham, as defined in Chapter 45, Flood Damage Prevention Local Law.
2. This district shall be superimposed over those portions of other zoning districts which lie within a flood plain as defined in this Local Law. Provisions applicable to a Flood Plain District shall be in addition to those applicable to such underlying zoning districts. In the event of conflicting provisions, those of the Flood Plain District shall prevail.

#### **C. Any development within the Flood Plain Overlay District, including buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations, or storage of equipment or materials, shall require a Special Use Permit. No such special permit shall be granted unless the applicant demonstrates that the proposed development is consistent with the requirements of Chapter 45, Flood Damage Prevention Local Law of the Town of Gorham.**

#### **D. Construction within the Floodplain**

1. Cut and fill must be balanced within the limits of the 100 year floodplain as identified on the most recently released Flood Rate Insurance Maps published by the Federal Emergency Management Agency. Principal buildings and other structures shall be construed as fill for the purposes of this section
2. All construction within a floodplain or floodway shall conform to the Town of Gorham Local Law No. 3 of 1987 as may be amended.

### **31.4.10 LAKE FRONT OVERLAY DISTRICT (LFO)**

#### **A. Purpose**

The intent of the Lakefront Overlay is to protect the water quality and scenic beauty of Canandaigua Lake as well as the overall design, unique character, and configuration of existing lakefront neighborhoods and properties by regulating the development of lakefront property.

Ensuring lake water quality through the design and maintenance of effective stormwater management is a critical element that must be incorporated throughout the overlay area. Where new construction or significant rehabilitations are proposed in the overlay district, the existing density and scale of the overall development should be maintained to ensure compatibility with adjacent properties, public safety is not negatively impacted, and the character of the lakefront is sustained. In general, the design of structures along and with views of the lakefront should reflect the preferred designs included in the Town’s Comprehensive Plan, Design Guidelines, or any other municipally-adopted documents.

**B. Location**

The LFO is composed of those portions of all parcels of record with frontage on Canandaigua Lake which lie to the west of the centerline of either County Road 11 or NY State Route 364.

**C. Definitions**

In the LFO District, only, the following words shall have the following meanings:

1. Boat: Any craft over 12 feet in length, or any motorized craft, designed to be used in the water and capable of carrying at least one (1) person.
2. Front Lot Line: In the LFO District the Front Lot Line shall be the line dividing the property from the High Water Mark of Canandaigua Lake.
3. High Water Mark: The location where the mean high water level intersects with the shoreline of the adjacent upland parcel.
4. Mean High Water Level: The approximate average high water level for a given body of water at a given elevation, determined by reference from survey datum provided by the United States Geological Service (USGS). According to the New York State Department of Environmental Conservation, Division of Regulatory Affairs, the Mean High Water Level is 689.41.
5. Rear Lot Line: In the LFO District the Rear Lot Line shall be the line dividing the property from a public highway or private access Right of Way.
6. Dock: Any structure or fixed platform built on floats, columns, open timber, piles or similar supports, placed on the waterside of the mean high water mark, and designed to provide access from the shore to Canandaigua Lake.
7. Lakefront Decks: Any structure or fixed platform built on floats, columns, open timbers, piles, concreted pad, or other appropriate material placed on the landside of the mean high water mark. Lakefront decks may be connected to docks that are regulated under Chapter 38, Canandaigua Lake Uniform Docks and Moorings Local Law.
8. Seawall: A wall designed and constructed to reduce erosion from lake action along the shoreline of Canandaigua Lake. Under this zoning local law, the town can only regulate the appearance, location, and materials used on the landward side of the mean high water mark of Canandaigua Lake.

**D. Dimensional Requirements**

The following dimensional requirements apply to all uses, unless more restrictive requirements are specified in these regulations.

<u>Minimum Lot Area:</u>	As specified for the underlying zoning district
<u>Minimum Frontage:</u>	As specified for the underlying zoning district
<u>Minimum Width:</u>	As specified in the underlying zoning district

<u>Minimum Depth:</u>	As specified in the underlying zoning district
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<u>Minimum Setbacks from property lines:</u>	<b>principal</b>	<b>accessory</b>
Front (measured from mean high water mark)	30	30
Rear (property line opposite front lot line)	30	20
Side for principal and accessory 144 sq. ft. or larger	15	15
Side for accessory structure under 144 sq. ft		5
Distance from other structures	10	10
<b>Maximum Building Height for lots of conforming width:</b>		
Principal and Attached Accessory Structures	35	35
Detached Accessory Structure	14	14
Maximum Lot Coverage	25%	25%
Minimum “green space”	20%	20%


<b>Maximum Building Height of Principal and Attached Accessory Structures for pre-existing non-conforming lots</b>	
<b>Lot frontage or the lot width, whichever is less:</b>	<b>Maximum Building Height (Principal and Attached Accessory Structures)</b>
75 ft. to less than 100 ft.	30 ft.
50 ft. to less than 75 ft.	26 ft.
30 ft. to less than 50 ft.	22 ft.
Less than 30 ft.	1 story & maximum 18 ft.

E. Permitted Principal Uses

These are governed by the underlying zoning district to which a parcel belongs, unless specified herein.

F. Accessory Uses

In addition to the accessory uses allowed in the underlying zoning district, the following uses are permitted accessory uses in the LFO:

1. Seawalls

- a. Subject to approval of the New York State Department of Environmental Conservation and any other State or Federal agency whose approval is required.
- b. Seawalls shall be allowed to be constructed with a zero foot setback from the front lot line. It is preferred that natural, non-structural or bio-engineered methods or materials be used for shoreline erosion control and protection. When structural methods and materials, such as vertical concrete, metal or wooden breakwalls, gabions, and riprap, must be used, they must be designed and constructed in accordance with NYSDEC regulations.

2. Lake Front Decks

- a. These are allowed to be built with a zero foot front setback, provided that all side and rear yard setbacks are maintained as required in the standards for the underlying district.
- b. Such decks shall not extend past the high water mark unless such extension serves the purpose of a boat dock.
- c. Such decks shall not be built more than one and one half (1 1/2) feet above existing grade.
3. Docks, Moorings and Boat Houses, subject to the requirements of Chapter 38, Town of Gorham Canandaigua Lake Uniform Docking and Mooring Law. For the purpose of determining the number of allowable docks and mooring facilities pursuant to said Chapter 38, all upland land uses shall be considered Tier 1 residential uses except as follows:
  - a. Marinas in the GB General Business District possessing a valid Special Use Permit shall be considered Tier 2.
  - b. Restaurants in the GB General Business District shall be considered Tier 3.
4. Private Boat Launching Ramp
5. Unenclosed Boat Storage for not more than two (2) boats and related equipment located on the same parcel.
6. On-Shore Boat Storage Buildings
  - a. built above the high water mark are allowed a zero foot front setback provided they are designed and intended for use as boat storage on the same lot as the owner's single family residence.
  - b. All such structures shall be constructed to house no more than two (2) boats, shall comply with the side yard setback provisions of the underlying zoning district, and shall be no more than 14 ft. in height above the mean high water mark.
7. Stairs to Access Canandaigua Lake. These are allowed to be built with a zero foot front setback, provided that all side and rear yard setbacks are maintained as required in the standards for accessory structures in the underlying zoning district. No such stairs shall be more than six (6) feet in width.

#### G. Stormwater Discharge

Development within this overlay must be designed so that no untreated stormwater is discharged directly to, or causes erosion of, wetlands or waterbodies (e.g. Canandaigua Lake). Design techniques may include, but not be limited to, green infrastructure (e.g. preservation of undisturbed areas and natural, and limited clearing and grading and/or soil restoration), infiltration systems, and stormwater management ponds.

#### H. Lake Access

1. The following requirements apply to deeded or contractual access to Canandaigua Lake for five (5) or more lots, parcels, or sites, or multiple family dwelling units not having separate or distinct ownership of the shoreline:
  - a. Where five to twenty (5-20) lots or multiple dwelling units are involved, a total of not less than 200 feet of shoreline will be required when shoreline access is provided.
  - b. Where more than 20 multiple dwelling units are involved, a minimum of three feet (3') of shoreline for each additional lot or multiple dwelling unit will be required when shoreline access is provided.
  - c. Construction of a boathouse, dock or mooring facility shall conform to the requirements of the Uniform Docks and Moorings Local Law.

#### I. Site Plan Review

1. Site plan review and approval shall be required for seawalls, lake shore decks, on-shore boat storage structures, all new construction or additions to existing structures, and/or expansion of any impervious surface, such as, but not limited to, sidewalks, driveways, walkways, retaining walls, patios, and decks.
  - a. Administrative review shall be required for all such construction not subject to site plan review by the Planning Board or listed as exempt from site plan review herein.
  - b. Site Plan Review by the Planning Board: Site plan review and approval pursuant to Article 10 of the Zoning Local Law of the Town of Gorham is required for all new construction of a building, structure, or site improvement totaling four hundred (400) square feet or more in area. Site plan review and approval pursuant to Article 10 of the Zoning Local Law of the Town of Gorham is required where a seasonal dwelling or residence is being replaced either in total or more than 50% of its original floor area is proposed to be replaced, in accordance with Section 31.4.10 Paragraph I subparagraph 2 herein of the Zoning Local Law of the Town of Gorham.
    - i. Special consideration for breakwalls and/or seawalls constructed on the lakefront of Canandaigua Lake: In addition to the considerations enumerated in Article 10 of the Zoning Local Law of the Town of Gorham, during site plan review of an application where a seawall or breakwall is proposed to be constructed on the Canandaigua Lakefront, the Planning Board shall take into consideration the aesthetics of the proposed structure in context with any structures on adjacent properties, the overall appearance of the structure from Canandaigua Lake, and compliance with the Town's Design Guidelines. The preference of the Town is to have such structures made from native materials and appear natural to the extent practicable
  - c. Exemptions **from Site Plan Review by the Planning Board**: Site plan review **by the Planning Board** is not required for the replacement of existing structures if the following criteria are met (**please note, administrative review of the site plan by the Town Code Enforcement Officer shall still be required**):
    - i. Accessory structures
      - (a) The dimensions of the replacement structure are the same as the existing;
      - (b) Substantial completion is within two (2) years of the demolition or removal of the existing structure; and
      - (c) The structure is located at least five (5) feet from every property line and ten (10) feet from any other structure.
    - ii. Single family dwellings
      - (a) The dimensions of the replacement structure are the same as the existing;
      - (b) The single family dwelling is the only residence on the property of record;
      - (c) Substantial completion is within two (2) years of the demolition or removal of the existing structure; and
      - (d) The structure is located at least five (5) feet from every property line and ten (10) feet from any other structure.
  - d. The applicant shall provide a site plan in accordance with Article 10. In addition to the specified requirements, applications for site plan approval for on-shore boat storage structures shall include a written description and/or drawings adequately describing the general appearance and exterior finish of the structure or any other new construction.
  - e. At the time of site plan application, the owners of all adjoining properties (including those directly across a public highway or private access right-of-way from the subject property) shall be notified by registered mail of the site plan review application.

## 2. Full Zoning Compliance Required

### a.

Where more than 50% of the floor area of an existing building is to be reconstructed or the floor area of an existing building is to be expanded by more than 50%, the entire building shall be brought into compliance with all lot coverage and setback requirements required for new construction as specified for the underlying zoning district in which such structure is located in the Zoning Local Law of the Town of Gorham. This requirement shall apply whether the original building is destroyed by fire or other natural disaster or the owner chooses to have the building remodeled or demolished in whole or in part. This requirement shall apply at any time during a remodeling, reconstruction, or addition project where the thresholds of this section are exceeded. For example, they shall apply whether or not discoveries made during construction reveal the need to demolish or remodel more of the structure than originally proposed. Where reconstructing a building cannot reasonably be brought into full compliance with the Zoning Local Law of the Town of Gorham, an area variance or variances may be sought from the Zoning Board of Appeals in accordance with Article 11, Section 31.11.9 of the Zoning Local Law of the Town of Gorham.

### b. Multiple Residences on a Single Lot

Where more than one residence is located on a single lot AND more than 50% of an existing building is to be reconstructed (by floor area) or expanded (by building footprint), the owner shall be required to eliminate the other residence(s) on the property, unless the applicant can show to the satisfaction of the Planning Board that the lot is of sufficient size and the buildings distributed in such a manner so that the property can be subdivided into conforming lots with a single residence on each.

## 3. Site Plan Required

Construction that exceeds the thresholds in 31.4.10.I.1 and 31.4.10.I.2 shall require a site plan in accordance with Article 10. Where the removal of one or more residences on a lot is required, the Planning Board shall specify a time frame for such removal of no more than two (2) years upon approving a site plan and shall make such removal a condition of the issuance of an occupancy permit on the premises.

## J. Minimum Floor Area

Year round single-family residences shall be no less than 950 square feet. Where a pre-existing lot is non-conforming due to lot size and lot width, and a year-round single-family residence of 950 square feet cannot be built without a variance from the lot coverage requirement, a seasonal residence of no less than 400 square feet may be constructed.

## K. Demolition and Reconstruction of Existing Structures

Where a legally existing, non-conforming residence or seasonal dwelling is proposed to be demolished and where such residence is the only dwelling on the parcel, said dwelling may be reconstructed. Where the existing lot coverage exceeds the maximum lot coverage allowed in the underlying zoning district, whether or not a variance for lot coverage had previously been granted by the Zoning Board of Appeals, the lot coverage resulting from any proposed reconstruction, replacement, relocation, or expansion of buildings and structures shall not result in an increase in lot coverage nor shall the area of the lot covered by the footprint of the principal building or buildings on the lot increase from the pre-existing lot coverage. In other words, where an existing lot coverage exceeds the maximum allowed in the underlying zoning district, a building's footprint cannot be expanded in the reconstruction by reducing decks,

driveways, or other impervious surfaces in order to have the lot coverage that exceeds that allowed by the underlying zoning district.

1. The replacement dwelling may be designed and constructed in accordance with the lot and building requirements set forth in Section 31.4.2.
2. Property owners will be permitted to replicate the former footprint of the demolished dwelling if the following requirements are met:
  - a. The dimensions of the proposed dwelling are the same as those of the original dwelling prior to demolition (habitable floor area, width, depth, etc.). The height of the new structure must be in accordance with the maximum height established for this district.
  - b. Stormwater treatment system is designed, installed, and maintained to capture and treat all runoff from impervious areas on site during a 25-year storm event for a 24-hour period.
  - c. The replacement dwelling shall be sited to be a minimum of five (5) feet from the property line and ten (10) feet from all adjacent structures.
3. In cases where the original lot coverage exceeds the current allowable maximum lot coverage, low impact development strategies shall be incorporated to allow the existing lot coverage and footprint to be replicated. The low impact development techniques contained in the most recent edition of the NYS DEC Stormwater Management Design Manual must be utilized in order for the original lot coverage percentage to be replicated. The difference in percentage, between existing lot coverage and allowable coverage, shall be made up for through the design of the reconstructed lot design. The runoff reduction techniques and systems utilized must yield runoff reductions equal to the percentage difference. In order for the improvements to be accepted by the Town, they shall be designed, and certified post construction, by a professional engineer to document that stormwater management techniques implemented adhere to the standards referenced in this section and achieve the percentage of runoff capture needed to allow the existing coverage to be replicated.
  - a. Reduction Examples:
    - i. Maintain Natural Areas – Existing natural areas are maintained, including shoreline vegetation within 25 feet of the high water mark and trees.
    - ii. Rooftop Runoff Capture – Techniques and methods described in the Stormwater Management Design Manual, including dry wells, rain gardens, vegetated grass swales, etc. to capture and allow on-site infiltration of stormwater of all primary roof runoff.
    - iii. Driveway Runoff Capture - Techniques and methods described in the Stormwater Management Design Manual, including french drains, filters, rain gardens, porous materials, etc. to capture and allow on-site infiltration of stormwater of all driveways.
    - iv. Accessory Structure Runoff Capture - Techniques and methods described in the Stormwater Management Design Manual for decks, patios, boathouses, and other allowed accessory structures to capture and allow on-site infiltration of stormwater of all accessory structures.
    - v. Creation of New Natural Areas – Conversion of impervious surfaces to natural areas (e.g. driveway reduced and replaced with natural/native vegetation or landscaping, shoreline revegetated, etc.).
    - vi. The reconstructed lot coverage shall not exceed the original coverage prior to demolition, regardless of the extent of low impact development strategies utilized.
- L. Lots Bisected by Right-Of-Ways.

Where lots are bisected by public or private right-of-ways that are intended to be used for vehicular access, the lakefront portion of the lot shall have maximum lot coverage of fifty (50) percent. This

shall be calculated without including any of the lot coverage reductions specified in Section 31.4.6.I.5 above. The total lot coverage shall still not exceed 25 percent. The maximum building height allowed will be based upon the portion of the lot upon which the residence is located. For lots that are bisected by private road/right-of-way, the area of pavement shall be included with the total lot coverage.

#### M. Shoreline Clearing

1. Shoreline vegetation is an important component of the Lake. In addition to providing habitat protection and valuable ecosystems, it also provides erosion protection, helps reduce stormwater runoff and pollutant loads, protects the integrity of the shoreline, and aids in water quality control. Additionally, natural shorelines support aesthetic and recreational values that contribute to the desirability and economic value of lakefront properties.

A shoreline protection area exists 25 feet inland beyond the high water mark in which vegetation removal, including trees and natural groundcover, and land disturbing activities are prohibited with the following exceptions:

- a. A viewing or access corridor no more than 30 feet wide may be established in which limited clearing may take place to provide safe access to the water or views from the primary dwelling through selective pruning (no more than 1/3 of the total tree height) or selective removal of trees. Limited clearing does not include earth moving or land disturbing activities. Accessory uses outlined in E above are to be located only within this corridor.

#### N. Normal Maintenance of Existing Vegetative Strips.

1. Shoreline restoration practices to provide permanent, long-term shoreline stabilization by planting new vegetation and/or installing bio-engineered slope stabilization materials. Existing breakwalls can be maintained and replaced in accordance with NYSDEC regulations.
2. Selective removal of dead or diseased trees which pose a safety hazard, endanger existing structures or the removal of noxious vegetation which poses a threat to health or safety.

#### O. Additional Impervious Surfaces

Once a Certificate of Occupancy/Certificate of Compliance is issued, the creation of additional impervious surfaces not included in the original approved site plan shall be prohibited. Violation of this regulation will be subject to fines and penalties in accordance with section 11.8.

- P. Expansion of buildings where lot coverage exceeds the maximum allowed: Where the existing lot coverage exceeds the maximum lot coverage allowed in the underlying zoning district, whether or not a variance for lot coverage had previously been granted by the Zoning Board of Appeals, no building shall be expanded so that it covers more of the lot unless the lot coverage is brought into compliance with the maximum lot coverage specified in the underlying zoning district. In other words, in order to expand a building's foot print on a lot where the coverage already exceeds the maximum lot coverage allowed, decks, driveways, patios and other impervious surfaces must be removed to bring lot coverage into compliance with the maximum lot coverage allowed in the underlying zoning. It is expressly forbidden to remove decks, driveways, patios, and other impervious surfaces and then expand a building's footprint so that the lot coverage exceeds the maximum allowed by the underlying zoning district.

**31.4.11 PRD - PLANNED RESIDENTIAL DEVELOPMENT DISTRICT****A. Purpose**

The purpose of this district is to accommodate multi-family dwellings and compact residential developments, including manufactured home parks, in appropriate locations within the Town.

**B. Location**

The Town Board can approve rezoning to PRD of property or a group of properties located in the HR, R-1, or RR districts.

**C. Procedure**

The owner or owners, or their duly appointed representatives, of property shall petition the Town Board for rezoning to PRD. Such a petition shall be accompanied by a sketch plan to scale showing the number of dwelling units, the proposed location of buildings, and means of egress and ingress. Within ten (10) days of receipt by the Town, such an application shall be forwarded to the Planning Board for recommendation. The Planning Board shall make a recommendation within 45 days to the Town Board. After receiving the recommendation of the Planning Board, the Town Board shall hold a public hearing and render a decision within 45 days. All such approvals shall be subject to subsequent Site Plan Review by the Planning Board.

**D. Requirements****1. Permitted Principal Uses**

- a. Multifamily structures consisting of townhouses, apartments, garden apartments, or similar residential uses containing a minimum of three (3) dwelling units within a single building or structure. All types of ownership arrangements may be permitted, including condominium or other ownership structures that involve both private and common ownership of land, structures, and interior space.
- b. Manufactured home parks or other compact single-family residential development.
- c. Accessory Uses
  - i. Private Solar Collection Systems

**2. Density of Development**

- a. The permitted maximum residential density for such areas shall not exceed eight (8) dwelling units per acre.
- b. The Planning Board may approve a site plan for a portion of the total planned residential development which includes areas of higher residential density than the permitted maximum, provided that the overall density for the entire parcel would not be increased beyond the specified maximum.

**3. Frontage**

The property must contain at least 66 feet of road frontage.

**4. Services and Utilities**

- a. The property shall be served by or proposed to be served by both public water and public sewer services. All sewage and water facilities shall comply with all applicable State, County, and Town standards, and shall be approved by same prior to the issuance of a building permit.
- b. All utilities (sewer, water, electric, natural gas, cable television, etc.) shall be provided to the dwellings below grade (underground).

**5. Landscaping and Buffer Areas**

There shall be provided proper landscaping for screening from adjacent properties and public streets and roads.

6. Maintenance of Common Areas

Where land, structures or interior space is proposed to be owned in common by the owners of individual residences, adequate provisions shall be made in advance of site plan approval for the continued maintenance of such common areas. All required legal agreements and approvals shall be in place before final site plan approval.

E. Requirements for Multi-Family Dwellings

1. Setbacks from Property Lines, Lot Coverage, and Green Space

<u>Minimum Setbacks from property lines</u>	<u>Feet</u>
Front (principal and accessory buildings):	30
Rear	
Principal	30
Accessory	10
Side (principal and accessory buildings)	
Principal	15
Accessory	10
<u>Maximum Building Height</u>	
Stories	2 & 1/2
Feet	35
<u>Maximum Lot Coverage</u>	35%
<u>Minimum Green Space</u>	20%

2. Every multifamily building shall have a minimum setback of 30 feet from every access road, internal road, and parking area
3. Minimum distance between multifamily buildings shall be 50 feet.
4. Apartment buildings shall contain no more than 12 dwelling units.
5. Townhouse buildings shall contain no more than six (6) dwelling units.
6. Minimum Habitable Floor Area Requirements:
  - a. Townhouse dwelling unit:
    - i. 1 or 2 bedroom: 850 square feet
    - ii. 3 or more bedroom: 1,000 square feet
  - b. Apartment dwelling unit:
    - i. Efficiency: 550 square feet.
    - ii. 1 or 2 bedroom: 750 square feet
    - iii. 3 or more bedroom: 1,000 square feet
7. Unit distribution
  - a. No more than 30% of the dwelling units in a multifamily development shall be efficiency units.
  - b. No more than 20% of the dwelling units in a multifamily development shall be three or more bedroom units.
8. Recreation and Permanent Open Space. One (1) area equal to a minimum of ten (10%) of the total lot area of the multifamily development shall be designated as a recreational area to be used in common by all residents of the multifamily development. A total of thirty percent (30%) of the property shall be designated as permanent open space. The area set aside for recreational area shall be counted as part of the permanent open space. Such permanent open space shall be in addition to the required setbacks, parking areas, streets, roads, rights of ways,

and stormwater drainage facilities (such as, but not limited to detention ponds, retention ponds, swales, streams, and ditches) as otherwise required by the Zoning Laws of the Town of Gorham.

9. Access
    - a. Access to the development shall be through a 66 ft. wide right of way dedicated to the Town of Gorham or a 66 ft. wide portion of the multifamily parcel leading to a public road.
    - b. The access road and any internal roads shall be constructed to the standards for dedicated roads in the Town of Gorham. Pavement should be 20 ft. wide for both the access road and all internal roads within the development.
    - c. The plan shall comply with the Access Management Local Law of the Town of Gorham.
  10. Every exterior wall of a townhouse building must be constructed with two (2) lateral offsets of at least two (2) feet, with each offset no closer than 20 feet to the end of the building.
  11. All stairways to the second story must be located internally within the building, and not exposed to ambient weather conditions.
  12. Each dwelling unit must have a storage area within the unit or in the same building of at least 40 square feet, and not less than four (4) feet wide at the smallest dimension.
  13. Space must be provided for safe and sanitary storage of solid waste and refuse. It must be out of sight, but easily accessible to residents of the buildings.
- F. Requirements for Compact Single-Family Residential Developments, Including Manufactured Home Parks
1. Minimum and Maximum Size - A minimum size for a compact single family residential development shall be five contiguous acres; maximum size shall be 200 acres.
  2. Size of house lot, dwelling and required setbacks (lots may be either subdivided units or simply the boundaries of each site intended for use as a place to permanently locate a home for occupancy as a single family residence whether owned by a homeowners association or offered for rent by the owner):
    - a. Minimum size of house lot: 7200 square feet.
    - b. Minimum width of lot: 60 feet
    - c. Minimum depth of lot: 80 feet
    - d. Maximum lot coverage shall not exceed 25 percent of lot area.
    - e. The minimum floor area of a dwelling, exclusive of any accessory structure, shall be 575 square feet.
    - f. Required setbacks for the principal structure on a house lot from adjacent house lots or from internal circulation roads.
      - i. Front yard setback: 20 feet
      - ii. Side yard setback: 30 feet
      - iii. Rear yard setback: 15 feet
    - g. Required setback from adjacent zoning district boundaries or from property lines is 60 feet.
  3. Streets, Roads, Parking, and Drainage
    - a. All access roads to the compact single-family residential development shall have a pavement width of at least 20 feet, with five (5) foot shoulders on each side.
    - b. All internal streets shall have a pavement width of at least 20 feet, with two (2) foot shoulders on each side. All streets and roads shall be paved with blacktop or equivalent. All streets and roads shall be properly maintained.

- c. Each house lot shall have provided an off-street parking area of at least 400 square feet of either gravel and crushed stone or blacktop. In addition, there shall be provided a paved common parking area for the parking of guests and accessory vehicles.
  - d. No unlicensed or unregistered motor vehicles, parts thereof, junk of any nature or description shall be parked or stored outdoors within the development, except within a designated common storage area, designed and maintained to be screened from view from adjacent property. Unregistered recreational vehicles and boats shall be stored in a road trailer.
  - e. There shall be adequate drainage to handle runoff of storm waters from streets, roads, and lots. Such drainage shall not adversely affect adjacent landowners. All drainage plans shall be prepared by a licensed engineer.
  - f. The plan shall comply with the Access Management Local Law of the Town of Gorham.
4. Recreational Areas and Open Space
- a. Recreational area: There shall be provided designated recreational areas of at least 200 square feet for each house lot, and in no event, less than 5000 square feet. Such recreational areas shall not include required setbacks, parking areas, streets, roads, rights of ways, and stormwater drainage facilities (such as but not limited to detention ponds, retention ponds, swales, streams, and ditches) as otherwise required by the Zoning Law of the town of Gorham.
  - b. Permanent Open Space: A minimum of thirty percent (30%) of the total area of the lot to be developed shall be set aside as permanent open space. Said permanent open space may include areas designated as recreational areas under subparagraph a. above.
5. Accessory Buildings
- Each house lot shall have one (1) accessory building, which may be pre-constructed, not exceeding 100 square feet. Each building shall be anchored down to a permanent foundation and shall be located no closer than ten (10) feet to the side or rear lot lines and to the rear of the front building line of the principal structure.
6. Flooding
- No house lot shall occupy an area that is subject to periodic flooding from water flows from any adjacent streams, waterways, drainage swales, or drainage areas and no lot shall be designed so as to collect or hold standing waters.
7. One (1) service structure is permitted for each development. The uses proposed for such structure shall be specified in the application for rezoning and approved by the Town Board. Such structure shall be intended primarily to serve residents of the compact single-family residential development. The parking, setback requirements, etc., shall conform to the requirements specified in this local law for the particular use.
8. Additional Requirements for Manufactured Home Parks
- a. Entrance platforms
- Each manufactured home lot shall have an entrance platform for each manufactured home. The platform shall be at least four (4) feet by eight (8) feet and constructed of concrete or asphalt and four (4) inches thick.
- b. Skirting
- Each manufactured home owner shall be required to enclose the bottom portion of the manufactured home with either a vinyl or masonry appearance enclosure within fourteen (14) days after arrival in the park. Such enclosures shall conform to the appearance and color of the manufactured home.
- c. Enclosures
- Pre-constructed enclosures, not exceeding 100 percent of the floor area of the dwelling are

- permitted if such enclosures are permanently attached to a foundation and meet the principal setback requirements of this Local Law.
- d. Foundations  
Each manufactured home shall be provided with a foundation conforming to both the manufacturer's specifications and the requirements of the New York State Uniform Fire Prevention and Building Code. Full perimeter foundations, or the appearance of such foundations, are not required, although full skirting is required.
  - e. Pre-Existing Parks  
If any pre-existing park, at the time of adoption of this Local Law, or thereafter, desires to expand in area, number of units, etc., the conditions of this Local Law shall be complied with.
  - f. All manufactured home parks shall require a license from the Zoning Officer, pursuant to Local Law #1-75 of the Town of Gorham.
  - g. A common storage area shall be provided for boats, recreational vehicles, motor vehicle trailers, and similar equipment. Such area shall be screened from view, shall provide adequate security, and shall be sufficient in size to serve the residents of the development.

#### **31.4.12 TOD - TELECOMMUNICATIONS OVERLAY DISTRICT**

##### **A. Purpose**

The Telecommunications Overlay District is intended to provide appropriate locations within the Town of Gorham for the construction of telecommunications towers where they will have minimal visual and environmental impacts to adjacent uses.

##### **B. Minimum Lot Requirements**

Lot size, setbacks, and frontage requirements shall not be less than those required in the underlying zoning district except in the case of the leased portions of lots used for telecommunications facilities as expressly permitted and regulated herein.

###### **1. Lot Size**

Lots used for telecommunication facilities shall be of sufficient dimensions that in the event the telecommunications tower sited thereupon fell and came to rest with the full tower design height in the horizontal position, said tower shall be fully contained upon such lot. In no instance shall the lot size be smaller than what is required in the underlying zoning district.

###### **2. Setbacks**

The tower shall be set back from all lot lines a distance equal to or greater than the tower height. In the event that the tower design height is, as a condition of approval of site plan or special use permit approval granted by the Planning Board, greater than the tower height, the tower shall be set back from all lot lines a distance equal to or greater than the tower design height.

###### **3. Height**

All height restrictions of the underlying zoning district shall remain in force with the exception that the Telecommunications Tower shall be permitted to be 200 feet in height plus an additional one (1) foot for every five (5) additional feet the tower base is set back over 1,000 feet from the nearest Public Right of way. The Planning Board shall be permitted to waive the height formula contained herein when it finds that topography or other considerations would result in a larger structure than varying the height of the tower in the location proposed. An example of an acceptable waiver is a case where the ground elevation decreases rapidly as the tower base is moved further away from a public right of way.

4. Leased lots used for telecommunications facilities

Telecommunications facilities are permitted to occupy a portion of a lot leased expressly for telecommunications facilities use. The lot of which a portion is so leased shall conform to the lot size requirements of both the underlying zoning district and the requirements of the TOD Telecommunications Overlay District. The portion of the lot exclusive of the portion leased for a telecommunications facility shall comply with all lot size and dimensional criteria of the Zoning Local Law of the Town of Gorham. In addition, the Leased area shall comply with all of the following conditions:

- a. The leased area shall conform to the lot size requirements of this Section 31.4.12.B.1. above, or shall be of sufficient size to contain the telecommunications facilities and be accompanied by an easement or deed restriction describing a NO BUILDING ZONE surrounding the base of the tower equal in horizontal radius to the tower design height. Such easements shall be granted by the landowner and offered for acceptance to the Town of Gorham. Upon acceptance by the Town, the applicant shall file said easement with the Ontario County Clerk and pay all applicable filing fees thereto. The NO BUILDING ZONE shall prohibit the construction of any new structure that is capable of being occupied and which is not part of and integral to the telecommunications facility. Said NO BUILDING ZONE shall not be permitted to contain any existing structures capable of being occupied which are not part of and integral to the telecommunications facility.
- b. The leased area shall be of sufficient size to contain the telecommunication facility with the exception of driveway, telephone, and electric wires serving the telecommunications facility.
- c. The leased area shall contain or be accompanied by an access easement of at least 20 but not more than 30 feet in width connecting the telecommunications facility to a public road. The location, design, and construction of driveways within this easement, as well as the location of the easement itself shall be reviewed as part of the site plan review required for a telecommunications facility.

C. Permitted Principal Uses

In addition to the uses permitted in the underlying Zoning District, Telecommunication Facilities as defined herein are permitted upon the review and approval of a site plan by the Planning Board pursuant to the requirements of Article 10 and this section. Where telecommunications facilities legally exist as a principal on a leased portion of a lot, the remainder of the lot may be occupied by another principal use outside the leased area and the associated NO BUILDING ZONE as long as the portion of the lot exclusive of the area leased for telecommunications facilities conforms to lot area, lot frontage, setback, and all other applicable dimensional requirements of the Zoning Local Law of the Town of Gorham.

D. Permitted Accessory Uses

Lots containing telecommunications facilities as their principle use or the leased portions of lots legally permitted to be occupied by telecommunications facilities shall be permitted to contain all equipment, road access, fencing, equipment buildings, above ground fuel storage tanks, and other site elements necessary for the function and maintenance of the telecommunications facility as specified on the site plan approved by the Planning Board. Private Solar Collection Systems shall also be allowed. Lots or the leased portions thereof occupied by telecommunications facilities shall be permitted by the Planning Board as part of the site plan approval to contain accessory uses such as Agricultural crops, gardens, pasture, trails, forest, managed timberland, pasture land employed for farm animals, and other uses determined to be of similar character. In no instance

shall other buildings be constructed, occupied, or utilized on the lot or leased portion thereof occupied by the telecommunication facility.

#### E. Site Plan Requirements

In addition to the requirements of Article 10 herein, the following site plan elements shall be required during the review of telecommunications facilities:

1. Location of access easement, if any, connecting telecommunications facility to a public road shall be shown and shall be in compliance with the Access Management Local Law of the Town of Gorham.
2. Location and construction of driveways connecting telecommunications facility to a public road;
3. Paving of driveways and gutters shall not be required except as otherwise specified herein. The application will be accompanied by a delineation of soil types through which the proposed driveway access shall pass. An accompanying report shall identify those soils on site that are classified as highly erodible. Driveways shall avoid areas with highly erodible soils where possible. Where not possible, the portion of the driveway passing through highly erodible soils with a slope of more than seven (7) percent shall be paved, and lined with paved gutters. The Planning Board may require paved gutters or stone rip rap lined ditches to connect paved gutters where drainage from highly erodible soils is collected prior to its return to natural drainage courses or recharge areas. All driveways shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential. Driveways or parking areas shall provide adequate interior turn-around, such that service vehicles will not have to back out onto a public thoroughfare;
4. Location of nearest residential structure;
5. Location of nearest occupiable structure;
6. Location of all structures on the property that is the subject of the application;
7. Location, size and height of all proposed and existing antenna(e) and all appurtenant structures;
8. The number, type and design of the tower and antenna(e) proposed and the basis for the calculations of tower and system capacity;
9. The make, model and manufacturer of the tower and antenna(e);
10. Fencing and Security:
  - a. Towers and accessory facilities shall be surrounded by a fence or wall at least eight (8) feet in height. Guy wire anchors shall be similarly fenced. Barbed wire is not to be used in residential areas or on public property unless specifically permitted by the Planning Board as part of the Site Plan Review.
  - b. Security lighting around the base of a tower or accessory facility shall be prohibited. Site lighting shall be placed on a timer such that once activated, they will automatically turn off within one (1) hour, eliminating the possibility of accidental or inadvertent long-term site lighting.
  - c. There shall be no permanent climbing pegs within 30 feet of the ground of any tower.
  - d. A locked gate at the junction of the access way and public thoroughfare may be required to obstruct entry by unauthorized vehicles. Such gate must not protrude into the public right of way.
11. Lighting, Screening and Aesthetics
  - a. Towers shall not be artificially lighted, including strobe lights, or marked except to assure human safety as required by the Federal Aviation Administration (FAA). Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and

painting requirements. However, an applicant may be required to add FAA-style lighting and marking if, in the judgment of the Planning Board, such a requirement would be of direct benefit to the public safety. The preferred lighting arrangement consists of a white strobe light during the daylight hours, and a red lighting at night in accordance with FAA requirements.

- b. The facility shall have the least practical visual effect on the environment, as determined by the Planning Board. Any tower that is not subject to FAA marking shall:
  - i. have a galvanized finish, or shall be painted gray above the surrounding tree line, and gray or green below the tree line, as deemed appropriate by the Planning Board, or;
  - ii. be disguised or camouflaged to blend in with the surroundings, to the extent that such alteration does not impair the ability of the facility to perform its designed function.
12. Accessory facilities shall maximize the use of building materials, colors and textures designed to blend in with the natural surroundings.
13. Signage  
Telecommunications facilities shall have a sign no larger than two (2) square feet to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmit capabilities. The sign shall also contain the name(s) of the owner(s) and operator(s) of the antenna(e) as well as an emergency phone number(s). No other signage, including advertising, shall be permitted on any telecommunications facility, unless required by Federal or State regulation.
14. Utilities serving site  
All utilities, such as but not limited to electric, gas and telephone lines, serving telecommunications facilities shall be installed underground from the public right of way to the equipment building.

#### F. Other Requirements for Telecommunications Facilities

1. As a Public Utility, the site plan shall include a backup generator and fuel storage facility of sufficient generation and fuel storage capacity capable of powering the facility, including any tower lighting as required by the Federal Aviation Administration for a period of not less than five (5) continuous days. The facility shall also be furnished with backup battery capacity to operate the same electronic equipment as the generator for a period of four (4) hours. The backup battery capacity shall be wired so as to furnish uninterrupted power in the event of a utility company electric supply failure. The facility shall be provided with automatic switching apparatus to start said generator at a minimum 15 minutes prior to failure of the backup batteries to furnish sufficient power to said facility.
2. A statement from a professional engineer licensed by the State of New York that the plan and facilities conform to all applicable regulations promulgated by the Federal Communications Commission (FCC), Federal Aviation Administration (FAA) and other federal agencies.
3. A copy of the certificate of public need in the State of New York or other evidence indicating the company's standing as a public utility.
4. The applicant shall agree to design, build or modify the tower to accommodate up to three (3) additional telecommunications service providers should there be a need or future need for such services. The scope of this analysis shall be determined by the Planning Board. This requirement may be waived, provided that the applicant demonstrates that the provisions of future shared usage of the facility is not feasible and an unnecessary burden, based upon:
  - a. The number of FCC licenses presently available and in the foreseeable future within the proposed service area;
  - b. The kind of tower site and structure proposed;

- c. The number of existing and potential licenses without tower spaces/sites;
  - d. Available spaces on existing and approved towers; and
  - e. Potential significant adverse visual impact by a tower designated for shared use.
5. Existing forest cover on the property should screen visibility of all structures on site, with the exception of that portion of the tower that rises above the tree line, from adjacent properties and public right of ways. In the event that existing forest cover does not exist on site, the site plan shall include a landscape plan detailing the planting of local climate species, typically the species of the Birch/Beech/Maple/Hemlock forest.
  6. A report shall be submitted with the site plan specifying:
    - a. The frequency, modulation and class of service of radio equipment;
    - b. Transmission and maximum effective radiated power of the antenna(e);
    - c. Direction of maximum lobes and associated radiation of the antenna(e);
    - d. Applicant's proposed tower maintenance and inspection procedures and records system;
    - e. Certification that Non Ionizing Electromagnetic Radiation levels at the proposed site are within threshold levels adopted by the FCC;
    - f. Certification that the proposed antenna(e) will not cause interference with existing communication devices;
    - g. Certification that the tower and attachments meet all State and Federal structural requirements and accepted engineering standards for loads, wind, ice fall zone specifications, etc.;
    - h. A copy of the FCC license.
  7. The applicant shall submit a written statement wherein the applicant agrees to defend and indemnify the Town of Gorham and any of its servants, agents or employees from any and all claims made in connection with the installation, construction, use or operation of the telecommunications facility;
  8. Equipment or vehicles not used in direct support, renovation, additions or repair of any telecommunications facility shall not be stored or parked on the facility site;
  9. Engineering and Maintenance
    - a. All telecommunications facilities shall be built, operated and maintained to acceptable industry standards, including but not limited to the most recent, applicable standards of the Institute of Electronic and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI);
    - b. All telecommunications facilities shall be inspected, at the applicant's expense, at least every fifth year for structural integrity by a New York State licensed professional engineer. A copy of the inspection report shall be submitted to the Town Board and Planning Board;
    - c. The facilities shall be kept in good repair, and shall be inspected by the Zoning Officer Annually. The Zoning Officer shall submit a report of all damage, weathering, or other conditions which cause the tower or other telecommunications facilities to deviate in their appearance from the details approved in the site plan by the Planning Board to the Town Board and to the owner of said property, with a copy to the applicant of record. All such damage, weathering, or other conditions cited in the Zoning Officer's report shall be repaired, replaced, or otherwise remedied to the satisfaction of the Town Board within 30 days of submission of such written report to the property owner and the applicant of record. Failure to repair, replace, or otherwise remedy within 30 days any such conditions as cited in such a report by the Zoning Officer duly delivered as specified herein shall render any site plan approval previously granted by the Planning Board null and void. When any such site plan approval has been declared null and void by the Town Board, the

Town Board shall have the right to exercise any financial security bond for the removal of the telecommunications facility that the applicant has provided the Town as specified herein.

10. Removal

- a. The applicant shall submit an agreement, in writing, to remove all towers, antenna(e), accessory facilities, etc., if such facilities become technically obsolete or cease to be used for its originally intended purpose for more than 12 consecutive months. Upon removal of said facilities, the land shall be restored to its previous condition, including but not limited to the seeding of exposed soil.
- b. The applicant must submit an analysis, certified by a New York State licensed professional engineer, the cost of removal of the telecommunications facility and surrounding property restoration.
- c. Prior to obtaining a Building Permit, the applicant must provide a financial security bond for the removal of the telecommunications facility, with the Town of Gorham as the designated assignee, in an amount specified and approved by the Town of Gorham.

G. Exemption from Site Plan Review and Approval for Modifications to Telecommunications Facilities in the TOD District.

Any modifications to an existing telecommunications facility within the TOD District shall not require a Site Plan Review if the additions to the Tower are limited to antenna(e), antenna mounting arms and hardware, and antenna(e) cabling and do not include dish antennas of more than three (3) feet in diameter, and if no other site modifications are necessary other than the addition of communications equipment and incidental wiring within existing buildings. Any changes in fencing, driveway location, access, driveway construction, buildings, or any other site improvements as shown on the site plan approved by the Planning Board, or the addition of any site elements not shown on the site plan approved by the Planning Board, or the installation of any dish antenna over three (3) feet in diameter shall require site plan approval from the Planning Board. The addition of height to a tower up to and including a tower's design height as previously approved by the Planning Board and/or the addition of antenna(e) to support a new telecommunications vendor co-locating on the same facility shall not require a new site plan approval provided that all other requirements of this paragraph are complied with and that the following are presented to the Zoning Officer with an application for a building permit:

1. The owner of the tower deliver a statement bearing the seal of a professional engineer licensed by the State of New York verifying that the tower is structurally capable of supporting the proposed additions.
2. That any indemnification of the Town of Gorham and its officers concerning the telecommunications facilities at this site has been extended to cover the proposed additions.
3. A statement signed and notarized that the new tenant to this site agrees that any new interference caused by the addition of their facilities to a telecommunications provider of prior occupancy on this or adjacent sites or to any user of electromagnetic communications on this or adjacent properties shall be remedied at the sole expense of the new telecommunications service provider.

**31.4.13 WFD - WIND FARM DISTRICT**

A. Purpose

To accommodate Wind Farms while ensuring that they protect the character and value of the neighborhood and the quality of life of the residents of the Town.

**B. Location**

The Town Board can approve rezoning to Wind Farm District (WFD) of property or a group of properties located in the FP or I districts east of Middle Road and County Road 18.

**C. Procedure**

The owner or owners, or their duly appointed representatives, of property shall petition the Town Board for rezoning to WFD. Such a petition shall be accompanied by a preliminary site plan to scale showing the number of WECS, the proposed location of all utility infrastructure and interconnections, maintenance buildings, and means of egress and ingress. Within ten (10) days of receipt by the Town, such an application shall be forwarded to the Planning Board for recommendation. The Planning Board shall make a recommendation within 45 days to the Town Board. After receiving the recommendation of the Planning Board, the Town Board shall hold a public hearing and render a decision within 45 days. The town shall notify owners of property within 1 mile of the proposed Wind Farm District boundary of said public hearing, at the expense of the applicant. All rezonings approved by the Town Board shall be subject to subsequent Site Plan Review by the Planning Board.

**D. Requirements for Wind Farms**

All applications for a rezoning to Wind Farm and the Site Plan Approval required shall comply with the following:

**1. Lot size**

Lots shall be of a sufficient size to ensure:

- a. WECS are setback a sufficient distance from all property lines, overhead transmission lines and dwellings a distance equal to one and one half times the maximum height of the WECS.
- b. The resulting sound pressure level generated by the WECS on a wind farm is equal to or less than 45 dbA at the property line on which the WECS is located.

**2. Transmission facilities:** All electrical connections to the local utility company transmission lines or the transmission grid installed to support the wind farm shall be constructed underground.**3. Determination of height:** The tower height of WECS shall be the minimum required for practical commercial use, up to a maximum of 300 feet. Height shall be from the base of the tower to the tip of the blade when in a vertical position. The applicant shall provide a minimum of one year's worth of on site wind data collected from a temporary tower located on the site of the proposed wind farm.**4. A preliminary site plan shall be submitted with the rezoning application.** The location of all proposed WECS that are part of the Wind Farm rezoning application shall be shown, as shall all existing and proposed buildings and structures, including the interconnection with the public utility infrastructure and any electrical substations that are part of the project. All WECS shall be designed so that the towers are not climbable from grade on the outside, and a landscaping plan shall be included showing plantings to screen utility buildings, electric substations, and security fencing where it is found to be desirable by the Planning Board.**5. A visual assessment of the proposed wind farm shall be submitted with the rezoning and site plan application.** The assessment shall include a regional view shed analysis so that the Town Board and or Planning Board may designate locations from which photo simulations shall be prepared by the applicant. The selection of such locations shall be based upon the scenic views and vistas documented in the Comprehensive Plan of the Town of Gorham and the

- determination of other existing public viewpoints and adjacent land uses which may be impacted by the proposed wind farm.
6. The applicant shall submit evidence that the wind farm shall be granted the right to connect to a local utility's transmission system and/or the transmission grid. The applicant shall produce a certificate of need for the proposed facility from the New York State Public Service Commission. No special use permit shall be granted by the Planning Board without such documentation.
- E. Sureties in a form and amount acceptable to the Town shall be required as a condition of approval of any wind farm for the following:
1. Repair of all potential damage to all public roads and infrastructure caused during the construction of the wind farm. Such surety shall remain in force until the completion of construction.
  2. Environmental clean up of any lubricant, solvent, or other toxic or hazardous materials on site. Such surety shall remain in force until the wind farm, including all contamination, buildings, structures and related improvements are removed from the site.
  3. Construction and maintenance of all erosion and sedimentation control infrastructure. After construction, the surety covering maintenance of such facilities shall remain in effect until the wind farm, including all contamination, buildings, structures and related improvements are removed from the site.
  4. Removal of all WECS, transformer, electric substations, and all related improvements on site. Such surety shall remain in force until the wind farm, including all contamination, buildings, structures and related improvements are removed from the site.
  5. To cover all rezoning and site plan approval conditions and requirements imposed by the Town Board and Planning Board.
- F. Site Plan Application for a Wind Farm shall:
1. Be accompanied by a Noise Analysis. The noise analysis shall be prepared by a competent acoustical consultant documenting the noise levels associated with the proposed Wind Farm. The study shall document noise levels at property lines and at the nearest residence not on the Site (if access to the nearest residence is not available, the Planning Board may modify this requirement). The noise analysis shall include low frequency noise.
  2. Be accompanied by a study on potential shadow flicker caused by the blades interrupting sunlight. The study shall identify locations where shadow flicker may be caused by the WECS's on the wind farm and the expected durations of the flicker at these locations. The study shall identify areas where shadow flicker may interfere with residences and describe measures that shall be taken to eliminate or mitigate the problems.
  3. Specify the lighting plan for the WECS. Towers supporting WECS shall not be lighted unless required by the Federal Aviation Administration (FAA). In such case where the FAA does require such lighting, the applicant shall propose the use of strobe lights during the day time switching to lower intensity red lighting at night, employing light fixtures that direct the light away from the ground.
  4. Be accompanied by a painting plan for the WECS based upon a study establishing a color scheme minimizing the visual impact of the WECS.
  - 5.
- G. Advertising: No lettering or logo of any kind shall be allowed on the blades or other portion of the WECS that can be seen by a person of normal vision in normal daylight from more than 50 feet away.

- H. Rotor safety: Each WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the blade below the design limits of the rotor. This shall be documented by a statement stamped by a professional engineer possessing a valid license from the New York State Department of Education submitted with the application for site plan review.
- I. Shadow Flicker: All WECS shall be located so that shadow flicker caused by the blades interrupting sunlight will not strike off site residences or property more than 5 minutes per day on average in a year. Shadow flicker of longer duration may be allowed if the owners of such property where shadow flicker occurs sign an agreement with the owner of such WECS that they accept the proposed duration of such shadow flicker, and a description of the duration of such shadow flicker on their property calculated and bearing the stamp of a professional engineer licensed by the New York State Department of Education is attached to such agreement. A condition of the granting of a building permit and where applicable a special use permit for a wind farm shall be the recording of all such fully executed agreements in the office of the County Clerk.
- J. Guy Wires and Anchors: All guy wires or cables shall be marked with high-visibility orange or yellow sleeves from the ground to a point ten (10) feet above the ground. Setbacks for anchor points, guy wires, or cables shall be 50 feet from any property line.
- K. Broadcast Interference
1. No individual WECS shall be installed in any location along the major axis of an existing microwave communication link where its operation is likely to produce electromagnetic interference in the link's operation.
  2. No individual tower facility shall be installed in any location where its proximity with existing fixed broadcast transmission or reception antenna (including residential reception antenna) for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception.
  3. The recipient of the Special Use Permit must correct any unforeseen interference to the satisfaction of the Code Enforcement Officer within sixty (60) days of any complaint.
- L. Insurance Requirements for Wind Farms:
1. The owners and operators of a proposed and/or operating wind farm in the Town of Gorham shall submit proof of insurance that they propose as adequate for such wind farm.
  2. The Town Board in consultation with the Town's insurer, shall determine the level of insurance necessary to cover damage or injury that might result from the failure of a tower or towers, including stray voltage discharge from said tower or towers, or any other part or parts of the generation and transmission facility.
  3. A condition of the issuance of a special use permit for a wind farm shall be the provision of insurance by the owner, contractors, and operators of insurance in the amount and form prescribed as adequate by the Town.
  4. Such insurance of the owner and operator shall be maintained in effect for as long as the Wind Farm is in operation.
  5. Such insurance of any contractor involved in the construction shall be in force for the duration of the construction.
  6. Any lapse in such requisite insurance shall void the special use permit.
- M. In approving a site plan for a wind farm, the Planning Board shall find:

1. That existing roads were used to the maximum extent practical, minimizing the need for construction of new roads for construction.
2. That construction and access roads built as part of the construction, operation, and maintenance of the wind farm have been located in such a manner as to preserve future use of the property for agriculture.
3. The number of new electric substations has been minimized.
4. That the number of new transmission lines and connections to the power grid have been minimized to the extent practical.
5. That the wind farm is not located in or proximate to a significant bird migration path such that it poses a hazard to migrating birds.
6. That the Town has sufficient authority to enforce compliance with and the owner(s) and operator(s) of the WECS has sufficient means and resources to meet all conditions imposed by the Town Board as part of the rezoning to Wind Farm District. The owner(s) and operator(s) of the WECS shall be responsible for meeting all such conditions and shall not pass on such responsibility to any other party without the express written consent of the Town.
7. That the Town has sufficient authority to enforce compliance with and the owner and operator of the WECS has sufficient means and resources to meet all conditions imposed by the Planning Board as part of the site plan approval for the Wind Farm WECS. The owner and operator of the WECS shall be responsible for meeting all such conditions and shall not pass on such responsibility to any other party without the express written consent of the Town.
8. That grounding of the WECS and other structures shall meet all manufacturer's requirements and include sufficient provisions to address and monitor stray voltage discharge and lightning protection.
9. That the color of the WECS and support structure have been specified to minimize visual impact to the maximum extent possible.
10. That the height of WECS(s) is/are the minimum required for practical use up to the maximum of 300 feet. The applicant shall provide a minimum of one year's worth of on site wind data collected from a temporary tower located on the site of the proposed WECS.

#### N. Requirements and Standards

1. Permitted Principal Uses:
  - a. Wind Farm
  - b. Agriculture
  - c. Any use existing prior to the rezoning to Wind Farm, provided that the use is not discontinued for any reason for a period of more than one year. The Town Board may, at the time of rezoning to WFD establish a condition for the rezoning the removal of any existing use on the subject property that is found to be incompatible with the proposed Wind Farm.
2. Multiple principal uses are allowed on a single parcel, subject to the requirements of 1 above.
3. Frontage.  
The property must contain at least 200 feet of road frontage.
4. Services and Utilities  
All utilities (sewer, water, electric, natural gas, cable television, etc.) shall be provided to the dwellings below grade (underground).
5. Landscaping and Buffer Areas: There shall be provided proper landscaping for screening from adjacent properties and public streets and roads.
6. Setbacks

- a. WECS located within the Wind Farm District must be a minimum of 2,000 feet from any property line or building not located in the Wind Farm District.
- b. Buildings and WECS within the Wind Farm District shall be separated in compliance with the requirements of the New York State Uniform Fire Prevention and Building Code and as dictated by the requirements for energy production.
- 7. The maximum height above grade for WECS shall be 300 feet.
- 8. Density: Individual WECS shall have a density within the WFD of no more than 10 per 100 acres
- 9. Accessory Uses
  - a. Private Solar Collection Systems

**31.4.14 RESERVED**

**31.4.15 RESERVED**

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**ARTICLE 5 - NON-CONFORMING LOTS, USES, AND BUILDINGS; PRE EXISTING SPECIAL USES****31.5.1 NON-CONFORMING LOTS OF RECORD**

- A. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Local Law, a single family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Local Law. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lots fail to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of area, width, and yard requirements shall be obtained only through action of the Zoning Board of Appeals.
- B. If two (2) or more lots of record in the same ownership have a common boundary, or are separated by a private right-of-way, private driveway or roadway other than a public highway, and if some or all of the lots do not meet the requirements for lot width and area as established by this Local Law, the land involved shall be considered to be an undivided parcel for the purpose of this Local Law.
- C. A parcel of land in single ownership or controlled by the owner of the parcel in question, across which is located a private driveway or roadway other than a public highway, shall be considered one (1) lot.
- D. The combination of two or more pre-existing adjacent lots that are non-conforming due to lot area, lot width, or lot depth, where at least one of the lots is vacant, into a single lot shall not require a variance from lot area, setback, or lot coverage requirements for the creation of a new parcel. Where new construction or additions to existing structures are proposed, said construction or additions shall be subject to site plan review as otherwise required herein.

**31.5.2 NON-CONFORMING USE OF LAND**

The following regulations shall apply when no buildings are involved:

- A. A non-conforming use of land shall not be changed to another non-conforming use, unless it is a similar or less non-conforming use, in the opinion of the Zoning Board of Appeals.
- B. If the non-conforming use of land, or any portion thereof, ceases for any reason for a period of one (1) year, or is changed to a conforming use, any future use of the land shall conform to the provisions of this Local Law.
- C. Notwithstanding the above, the Zoning Board of Appeals may extend, to a maximum of two (2) years, the period within which the non-conforming use may be re-established, provided that:
  - 1. the property owner or representative submits a statement to the Zoning Board of Appeals, prior to the end of the one (1) year period, containing sufficient justification of the need for additional time to re-establish the non-conforming use; and
  - 2. the Zoning Board of Appeals determines that the extension is justified due to factors beyond the control of the applicant.

- D. The non-conforming use of land shall not be increased to a greater area than that occupied by such use at the time of the adoption of this Local Law.

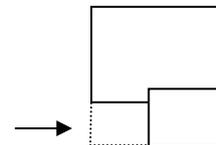
**31.5.3 NON-CONFORMING USES OF BUILDINGS**

- A. A non-conforming building or structure may be changed to a more restrictive non-conforming building.
- B. No such building may be enlarged in a way that increases its non-conformity.
- C. Any non-conforming use may be extended throughout any parts of the building that were arranged or designed for such use at the time of the adoption of this Local Law, but no such use shall extend to occupy any land outside such building.

**31.5.4 NON-CONFORMING STRUCTURE OR BUILDING**

- A. A building or structure that is conforming in use, but does not conform as to the height, yard, parking, loading or land coverage requirements of this Local Law, shall not be enlarged so as to increase the extent of its non-conformity.
- B. However, enlargement of a non-conforming structure shall be permitted, without need for a variance, if the enlargement:
  1. Does not result in construction closer to the front or side setback than at least 50% of the current building footprint; and
  2. Is not located in the Lakefront Overlay zoning district.

Permitted enlargement:



**31.5.5 RESTORATION OF NON-CONFORMING BUILDING**

Should any legally existing non-conforming use or building be destroyed by fire or natural disaster, it may be repaired or reconstructed to the same size (including height and number of stories) and location, providing that such reconstruction be completed within two (2) years from the time the destruction occurred, and provided that it meets all applicable setbacks.

**31.5.6 PRE EXISTING SPECIAL USES**

Any use lawfully existing at the time of the adoption of these regulations, which was established without the need for a special use permit, and which is located in a district in which such use requires a special use permit, shall not be subject to the special use permit requirements of this Local Law. However, any expansion of such use shall be subject to the special use permit requirements and procedures of this Local Law, including site plan review.

For such pre existing special permit uses located within the GB District, all the owner’s contiguous property shall be deemed to be a single lot for the purpose of zoning.

**31.5.7 NON-CONFORMING ACCESS**

- A. Upon application for a special use, change of use, site plan, or subdivision permit, all existing vehicular access points serving the property that is the subject of the application shall be brought

into compliance with these access management requirements.

- B. Compliance shall be a Condition of Approval. In the granting of any approvals for special use, change of use, site plan, or subdivisions concerning property that is not in compliance with these requirements, the Planning Board shall require implementation of a retrofit plan as defined herein to bring the subject property into compliance with the Access Management Local Law of the Town of Gorham as a condition of such approval.
- C. Retrofit Plan. A retrofit plan shall be either a stand alone plan or be included in the drawings approved as part of any special use, change of use, site plan, or subdivision plan that indicates changes to the existing conditions on the subject property the Planning Board deems as necessary to comply with these access management requirements. In reviewing the acceptability of said retrofit plan, the Planning Board shall consider whether the retrofit plan will minimize the traffic and safety impacts of development by bringing the number, spacing, location, and design of driveways into conformance with these requirements to the extent possible without imposing undue or inequitable hardship on the property owner. The retrofit plan shall include requirements for the implementation of the changes specified therein. The retrofit plan may include:
1. elimination of driveways,
  2. realignment or relocation of driveways
  3. provision of shared driveways and/or cross access driveways,
  4. reversal of access (e.g. installation of a driveway to a rear access road),
  5. traffic demand management (e.g. a reduction in peak hour trips), or
  6. such other changes that may enhance traffic safety.
- D. Waiver of Requirements. The Planning Board is hereby empowered to waive the requirement for compliance with paragraph B above only upon its finding that such compliance is impractical because other infrastructure necessary to serve the proposed access to the property is not, nor will be constructed near enough in the future to serve the access needs of the subject property, such as but not limited to the construction of parallel or rear access roads across adjacent property not under the ownership or control of the applicant. Where such waiver is granted by the Planning Board, it shall require as a condition of approval a binding commitment to implement a retrofit plan for access as described in C. above upon 1 year's notice from the Town that the infrastructure necessary to support said access is in place. Said commitment shall be in a form acceptable to the Town.
- E. Notwithstanding any other provisions of this local law, projects that involve non conforming access, whether existing or proposed, shall require site plan review by the Planning Board in compliance with Article 10 herein.

**31.5.8 RESERVED**

**31.5.9 RESERVED**

**ARTICLE 6 – RESERVED**

## ARTICLE 7 - GENERAL REGULATIONS

### 31.7.1 APPLICATION OF REGULATIONS

No building, structure or land shall be used or occupied nor shall any building or structure or part thereof be constructed, erected moved, enlarged or structurally altered unless in conformity with this Local Law. This Local Law shall not be applicable to routine maintenance of any structure. No manure storage facility as defined herein shall be constructed or operated except in conformance with this Local Law.

### 31.7.2 GENERAL REGULATIONS

The provisions of this Local Law shall be subject to such exceptions, additions or modifications as herein provided by the following general supplementary regulations.

### 31.7.3 FRONTAGE UPON A PUBLIC STREET

Every principal building shall be built upon a lot with frontage upon a public street, or private road or driveway improved to meet the standards of the Town of Gorham Design and Construction Standards, and in accordance with Chapter 62 of the Consolidated Laws of New York State, Article 16, Section 265, and Section 280-a of Town Law.

### 31.7.4 ACCESS MANAGEMENT

All new development in the Town, including site plans, subdivisions, variances and building permit applications and approvals shall comply with the Access Management Local Law of the Town of Gorham. Any deviation from the requirements of the Access Management Local Law shall only be allowed under the procedures designated in said Access Management Local Law.

### 31.7.5 LOT FOR EVERY RESIDENTIAL BUILDING AND OTHER PRINCIPAL USE

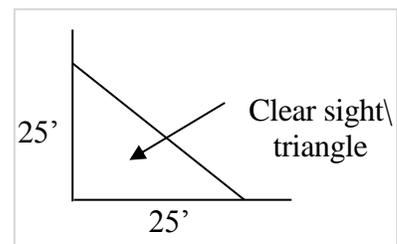
- A. Every residential building hereafter erected shall be located on a lot as herein defined and there shall not be more than one (1) residential building on one (1) lot. Except that if more than one (1) residential building is located on a single lot, such buildings shall be located in such a manner that both buildings could meet the required setbacks if the lots were formally subdivided.
- B. Only one (1) principal use is permitted on a lot, except in the HC - Hamlet Commercial and GB district.

### 31.7.6 CORNER LOTS

Corner lots shall provide at least the minimum front yard requirements for the respective district for both intersecting streets.

### 31.7.7 INTERSECTION OF TWO (2) OR MORE STREETS

At the intersection or interception of two (2) or more streets, no hedge, fence, sign, or wall higher than three (3) feet above the curb level, nor any obstruction to vision, shall be permitted on any lot within 25 feet of a street or property line nor in the area forming a triangle when these points are connected. (See diagram.)



**31.7.8 CONSERVATION SUBDIVISION DEVELOPMENT**

- A. Conservation Subdivision Development, as defined as Cluster Development in Section 278 of Town Law, is encouraged in order to preserve open space, preserve prime agricultural resources and active farming operations, recreation areas, scenic views, and forested areas while creating more efficient and livable neighborhoods.
- B. The Planning board is authorized to allow or require Conservation Subdivision Development.
- C. The maximum number of lots and dwelling units shall not exceed the number that would be permitted with conventional development. If an applicant wishes to use transfer of development rights under incentive zoning (section 8.13), the number of lots cannot exceed the number allowed under conventional subdivision in accordance with 8.13D. The following formula shall be utilized to determine the maximum number of lots allowed in the Conservation Subdivision Development:

$$\begin{aligned}
 & \text{(Total acres in property outside existing road right-of-ways)} \\
 & \quad \text{[Hereinafter referred to as the total property]} \\
 & \qquad \text{Minus} \\
 & \text{(15\% of total property for roads, utilities, and sidewalks or trail systems)} \\
 & \qquad \text{Minus} \\
 & \text{(5\% of total property for storm water systems (including swales, retainage, and detainage))} \\
 & \qquad \text{Minus} \\
 & \text{(all areas with slopes over 15\%)} \\
 & \qquad \text{Minus} \\
 & \text{(30\% of total property for required set aside for permanent open space)} \\
 & \qquad \text{Minus} \\
 & \text{(All areas within and within 100 feet of a DEC regulated wetland)} \\
 & \qquad \text{Divided by} \\
 & \text{(Minimum lot size allowed in the zoning district)}
 \end{aligned}$$

Alternatively, the developer may prepare a conventional subdivision plan for the purpose of determining the maximum number of building lots to be allowed in the Conservation Subdivision Development.

**31.7.9 REDUCTION IN LOT SIZES, AREAS, PARKING.**

Except as otherwise permitted in this section, the area or dimension of any lot, setback, parking area, or other space shall not be reduced to less than the minimum required by this Local Law, and if already lawfully less than the minimum required by this Local Law, said area or dimension may be continued but not further reduced.

**31.7.10 MINIMUM LOT SIZES FOR TWO FAMILY DWELLINGS WHERE BOTH PUBLIC WATER AND SEWER ARE NOT AVAILABLE**

Lots to be developed for two family dwellings shall be the same as single-family dwellings unless otherwise unless exceptions are specified in the zoning district where they are permitted by right or permitted by special use.

**31.7.11 PARKING SPACE**

Off-street parking space shall be provided as specified in Article 8, Section 31.8.3, Table 1, and shall be provided with necessary passageways and driveways. All such space shall be deemed to be required space on the lot on which the same is situated unless otherwise stated and shall not thereafter be encroached upon or reduced in any manner. No permanent parking facilities shall be permitted within any required front setback.

**31.7.12 REQUIRED PERMANENT OPEN SPACE**

Unless specifically stated otherwise herein, any application creating new lots for residential development or creating additional dwelling units where no permanent open space was created at the time of creation of the lot, shall require that a minimum of thirty percent (30%) of the property involved (the lot area or area of all lots that are part of the application) shall be designated as permanent open space. The permanent open space shall be in a form and manner approved by the Planning Board. The permanent open space shall be in addition to any area in required setbacks as may be required in this local law. Upon determination of the Planning Board that such set aside is not practical or in the best interest of the Town on a particular parcel or property that is the subject of an application, the applicant may either:

- A. Substitute permanent open space, including conservation easements, on other property in a form, quantity and manner acceptable to the Town that the Town determines is roughly equivalent in value to the permanent open space that is required to be set aside on the property that is the subject of the application before the Planning Board, or
- B. Pay to the Town a recreation fee as may be established by the Town Board in lieu of providing permanent open space.

**31.7.13 HEIGHT REGULATIONS**

- A. No building or structure shall have a greater number of stories or greater number of feet in height than are permitted in the district where such building is located.
- B. Permitted Exceptions  
Height limitations specified elsewhere in this Local Law shall not apply to church spires or belfries, water towers, chimneys not more than four feet above the roof, non-commercial radio and television masts, towers and aerials, or to parapet walls (except that no parapet wall may extend more than four feet above the limiting height of the building), or to farm buildings or farm structures on farms, provided these farm buildings are not less than 40 feet from every lot line.

**31.7.14 GENERAL REQUIREMENTS FOR SINGLE AND TWO-FAMILY RESIDENTIAL PROPERTIES ON INDIVIDUAL LOTS**

- A. New construction of residential dwellings on individual lots shall be preceded by the issuance of site plan approval by the Planning Board in accordance with Article 10.
- B. Single family dwellings outside of the Planned Residential Development District shall have a minimum habitable area of 950 square feet. Two family dwellings shall have a minimum habitable area of 1900 square feet total or 950 square feet per dwelling unit, except for accessory apartments permitted with a special use permit.
- C. In order to protect the value of the property, adjacent properties, and neighborhood properties, as well as to ensure the long-term maintenance of the subject property, residential dwellings shall have the appearance of a full perimeter masonry foundation. All construction shall have a foundation in accordance with the New York State Uniform Fire Prevention and Building Code.

**31.7.15 CONTROL OF RUNOFF**

No change in quantity, rate, or quality of runoff from existing conditions prior to development shall exist after development.

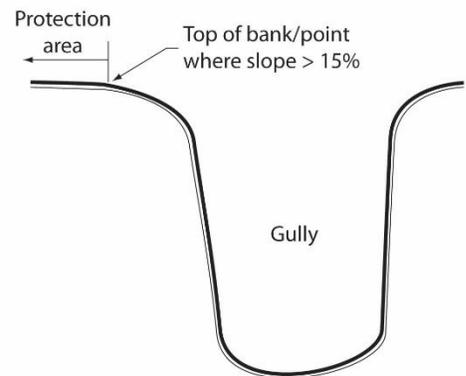
**31.7.16 NATURAL RESOURCES PROTECTION**

- A. Purpose. The Town Board intends to protect and preserve the valuable natural and physical resources in the Town of Gorham. These regulations are designed to ensure future development maintains the existing natural character of the Town, reduce and minimize the degradation of water quality to Canandaigua Lake through responsive development techniques, further the goals of the Comprehensive Plan, and locate any construction or development activity in such a manner to have the least potential environmental or physical impact on these resources.
- B. Natural Resource Delineation. The resources identified below are of significant concern to the Town and have been highlighted in this local law because they require protection and/or buffering. The requirements contained herein support the Town’s Soil Erosion and Sedimentation Control local law and augment the standards where necessary. These resources and their subsequent protection/buffer areas shall be shown on all site plans.

1. Gullies

Other than those significant, named gullies that are identified on USGS Topographical Mapping, gullies that are identified on mapping or documents officially adopted by the Town, such as but not limited to the most current Town Comprehensive Plan and the Farmland, Open Space and Conservation Plan, shall be regulated by this section. The protection area shall be those areas within one-hundred (100) feet from the point where the slope of the top of bank of the gully becomes greater than 15 percent (15%).

- 2. Steep Slopes. The protection area for steep slopes shall include areas of fifteen percent (15%) or greater slopes, and all areas within fifty (50) feet of the toe or top of such slopes. The Planning Board may consult other information, including, but not limited to Soil Survey Maps,



USGS topographic maps, filed surveys and other appropriate sources to more accurately determine steep slope boundaries.

3. **Ridgelines.** Other than significant, names hilltops identified on USGS Topographical Mapping, prominent hilltops and lands above 1,000 feet as identified in the Town's Farmland, Open Space, and Resource Conservation Plan (2005 or subsequent update) shall be included within the protection area.
4. **Unique Geologic Features.** These features include the shale banks and the calcareous cliff community. Shale banks are generally located in the southwestern portion of the Town along the Canandaigua Lake shoreline from Shale Beach Drive and East Lake Road to the Gorham-Middlesex municipal border. The calcareous cliff community is also located in the southwestern portion of the Town and shall be identified through consultation with the NYS Natural Heritage Program and/or a professional geologist. The protection area for these resources shall be all areas within fifty (50) feet of the top of slope.
5. **Woodlots.** Woodlots and woodlands consist of established wooded areas within the Town, identified in the Town's Farmland, Open Space, and Resource Conservation Plan (2005 or subsequent update) as well as those significant woodland communities identified by the New York State Natural Heritage Program. The protection area shall be determined by a qualified forester or other conservation professional.
6. **Streams.** In addition to any other streams identified by the Town or any other State or Federal agency, the regulations and standards set forth shall apply to the following streams: Deep Run, West River, Rocky Run, and Flint Creek. The protection area for a stream corridor, whether a permanent or seasonal/intermittent stream, shall be those areas within fifty (50) feet of the top of the embankment of the stream or the mean high water mark, whichever is greater.
7. **Canandaigua Lake Watershed.** The protection area is the boundaries of the Canandaigua Lake Watershed as determined by the Ontario County Soil and Water District. Where the exact boundaries of the watershed are in doubt or dispute, the burden of proof shall be upon the owner of the property in question to consult with the Watershed Inspector or other qualified professionals to show where the extent of the watershed boundary falls.

#### C. Performance Standards.

1. **Ridgelines.**
  - a. No development or construction shall take place on or adjacent to any ridgelines in the Town unless:
    - i. All structures that are part of the proposed development shall be no more than five (5) feet higher than the highest point immediately adjacent to the site.
    - ii. The clearing limits for the proposed development are limited to no more than twenty (20) feet beyond the primary structure and ten (10) feet beyond any accessory structure, parking, driveways, or other access.
    - iii. A visual analysis of the site is conducted, the methodology of which is to be approved by the Planning Board prior to the commencement of this analysis. The analysis must include before and after pictures and/or simulations from at least four (4) locations in the Town; preferably from public locations such as parks, roadways, or the Lake, if possible.
    - iv. Architectural elevation drawings shall be included as part of the visual analysis and shall provide sufficient detail to show building materials, colors, roof pitch, and other elements deemed necessary by the Planning Board to minimize visual impacts. Exterior windows, trim, and other exterior materials shall be non-reflective.

- v. A buffer strip is required to minimize any visual impacts of any proposed structures where natural vegetation does not provide adequate screening as shown in the visual analysis. Screening and buffering shall be clearly shown in a landscaping site plan.
2. Unique Geologic Features. No construction or development shall occur within the protection area of the identified features. Natural vegetation shall be maintained within the protection area.
3. Woodlots. Development proposed within or adjacent to any woodlot areas identified in this Article shall be designed so as to minimize the removal or disturbance of trees with a diameter at breast height (DBH) of six inches (6”) or more. Development sites should be designed in a manner that preserves as many trees and mature vegetation as possible. Plans shall be guided by a qualified arborist, forester, or a landscape architect. Where the removal of trees is proposed, the following standards shall be followed:
  - a. A survey of all trees with a DBH of six inches or greater, identified by species, condition, and whether it is able to be preserved, according to a qualified professional, shall be prepared and submitted with a site plan, if required.
  - b. A pre- and during construction protection plan for preserved or relocated trees/vegetation.
  - c. Erosion, sedimentation and stormwater control measures shall be utilized in accordance with Soil and Sedimentation local law (Section 85-9).
  - d. The planting of replacement vegetation, if required at the discretion of the Planning Board, shall be of a native species similar to those that are found within the vicinity.
4. Streams
  - a. Refer to the Soil Erosion and Sedimentation Control Local Law of the Town of Gorham.
  - b. Development adjacent to the protection boundary shall be designed and constructed in accordance with erosion and stormwater control standards and best management practices identified in NYS DEC’s “Stream Corridor Management Manual.”
5. Canandaigua Lake Watershed  
Refer to the Soil Erosion and Sedimentation Control Local Law of the Town of Gorham

### **31.7.17 MANUFACTURED HOUSING REQUIREMENTS**

- A. All manufactured housing units proposed to be located and occupied within the Town of Gorham shall bear a HUD SEAL signifying compliance with the construction standards established by the United States Department of Housing and Urban Development in effect at the time of the construction of the manufactured housing unit, or shall bear a seal from the State of New York signifying compliance with the New York State Uniform Fire Prevention and Building Code in effect at the time of construction of the manufactured housing unit.
- B. Prior to the location of a manufactured housing unit within the Town of Gorham, a building permit shall be obtained from the Town Code Enforcement Officer. Applicants shall provide details of all improvements subject to the requirements of the New York State Uniform Fire Prevention and Building Code, including but not limited to entry stairs, foundation design including a copy of the manufacturer’s specifications for the location of such foundations including all anchoring requirements, and utility hookups.
- C. Prior to occupancy of any manufactured housing unit within the Town of Gorham, an occupancy permit shall be obtained from the Code Enforcement Officer. The Code Enforcement Officer shall inspect all footings, utility connections, access improvements such as entry stairs, and other site improvements to certify compliance with the New York State Uniform Fire Prevention and Building Code. During said inspection the Code Enforcement Officer shall verify the

manufactured housing unit proposed to be occupied shall bear a HUD seal or a seal from the State of New York in compliance with Paragraph A of this section. During said inspection the Code Enforcement Officer shall verify that the current condition of said unit complies with the HUD or New York State standards in effect upon the date of manufacture of such a unit. In the absence of either a HUD or New York State seal the manufactured housing unit shall be required to conform to the current standards of the New York State Uniform Fire Prevention and Building Code, and shall be subject to obtaining a building permit prior to any site construction. At a minimum, all manufactured housing units shall be anchored in compliance with manufacturer's specifications. Any manufactured housing unit failing to comply to the requirements of this Section shall not be occupied within the Town of Gorham. The Code Enforcement Officer shall furnish the applicant with a written list of violations of said codes upon inspection. Such violations shall be remedied by the applicant prior to the issuance of an occupancy permit. If such violations are not remedied within 90 days, the unit shall not be occupied within the Town of Gorham and shall be removed from the property at the applicant's or owner's expense.

- D. Manufactured housing units which legally are located and occupied as of April 1, 1998, shall not be subject to the requirements of Paragraph A, B and C of this section provided that such units are not relocated. The replacement of any existing manufactured housing unit within the Town with another manufactured housing unit shall comply with Paragraphs A, B and C of this section, shall comply with the site plan review requirements of Article 10 herein and all applicable setback requirements of the Zoning Local Law of the Town of Gorham.
- E. Paragraphs A, B, C, and D of this section shall apply equally to all manufactured housing within the Town of Gorham whether located within manufactured housing parks or on an individual lot.

### **31.7.18 REQUIREMENTS FOR ALL WECS**

All WECS shall comply with the following:

- A. All Residential WECS shall be subject to Site Plan review and approval by the Planning Board.
- B. All Commercial WECS shall require a special use permit and Site Plan approval by the Planning Board.
- C. Number of WECS allowed per lot: In all districts except the Wind Farm District, no more than 2 WECS shall be allowed on a parcel.
- D. Except in the Wind Farm District, no WECS or pair of WECS shall be constructed on a parcel that does not contain a residential, agricultural, or commercial building, that has a peak load demand roughly equivalent to the generation capacity of the WECS to be constructed on the property. Owners of multiple adjoining parcels may locate WECS that serve buildings on one parcel while the WECS is located on a different adjoining parcel. In such cases, the total number of WECS on the parcels with the buildings to be served and on which the WECS are located shall be no more than 2.
- E. Rotor Safety  
Each WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the blade below the design limits of the rotor.

- F. Electromagnetic Interference. The WECS shall be operated such that no disruptive electromagnetic interference is caused to surrounding properties. It shall be the responsibility of the WECS owner to remedy any documented electromagnetic interference at the expense of the WECS owner.
- G. Setback. All WECS shall be setback from the property line, overhead transmission lines and dwellings a distance at least equal to one and one half times the maximum height of the WECS above finished grade. Additional requirements for WECS within the Wind Farm District shall also be met as established in Section 31.4.13 herein.
- H. Shadow Flicker. WECS shall be located so that shadow flicker caused by the blades interrupting sunlight will not strike off site residences or property to the maximum extent practical. Additional requirements for WECS within the Wind Farm District shall apply as designated in Section 31.4.13 herein. Where the Planning Board identifies that shadow flicker of sufficient duration on adjacent property may pose a significant impact, the Planning Board may require additional analysis of the duration of such flicker be conducted by a Professional Engineer, or the presentation of a signed agreement by the owners of such potentially impacted property that they are aware of and accept the proposed shadow flicker.
- I. Maximum WECS height above grade:
1. Residential WECS shall be no more than 100 ft.
  2. Commercial WECS shall be no more than 100 ft., except in the FP district where the maximum height shall be 200 ft.
  3. WECS in the WFD shall be no more than 300 feet.
- J. Minimum distance of blades above finished grade:
1. Blades on a WECS located as part of a wind farm shall be a minimum of 35 ft above grade.
  2. Blades on a Residential or Commercial WECS shall be a minimum of 15 ft. above grade.
- K. Blades on a Residential or Commercial WECS that is roof mounted shall be a minimum of 10 feet in every direction from the roof surface on which it is mounted.
- L. Any construction involving agricultural land should be done according to the NYS Department of Agriculture and Market "Guidelines for Agricultural Mitigation for Wind Power Projects."
- M. All WECS shall be grounded per manufacturer's specifications.

### **31.7.19 COMMERCIAL WECS**

The Planning Board may issue a special use permit for a Commercial WECS, as defined herein, outside of the LDO in the FP, HC, and I districts and in the portion of the FP district in the LDO, as a principal use even if another use such as agriculture or industry exists on the subject property provided that the following standards and requirements are maintained:

- A. Lot Size. Lots shall be of a sufficient size to ensure:
1. WECS are setback a sufficient distance from all property lines, overhead transmission lines, and dwellings and other buildings not on the subject property a distance equal to one and one half times the maximum height of the WECS.

2. The resulting sound pressure level generated by the WECS is equal to or less than 45 dbA at the property line on which the WECS is located.
- B. Transmission Facilities. All electrical connections to the local utility company transmission lines and to the building or buildings to be powered by the WECS shall be constructed underground.
- C. Determination of Height. The height of WECS shall be the minimum required for practical commercial use up to the maximum allowed for WECS in the zoning district it is located in. The applicant shall provide a minimum of one year's worth of on site wind data collected from a temporary tower located on the site of the proposed WECS.
- D. An erosion control plan shall be submitted with the special use permit application.
- E. A preliminary site plan shall be submitted with the special use permit application. The location of all proposed WECS that are part of the Wind Farm Special Use Permit Application shall be shown, as shall all existing and proposed buildings and structures, including the interconnection with the public utility infrastructure and any electrical substations that are part of the project. All WECS shall be designed so that the towers are not climbable from grade on the outside, and a landscaping plan shall be included showing plantings to screen utility buildings, electric substations, and security fencing where it is found to be desirable by the Planning Board.
- F. A visual assessment of the proposed Commercial WECS shall be submitted with the special use permit application. The assessment shall include a regional view shed analysis so that the Planning Board may designate locations from which photo simulations shall be prepared by the applicant. The selection of such locations shall be based upon the scenic views and vistas documented in the Comprehensive Plan of the Town of Gorham and the determination of other existing public viewpoints and adjacent land uses which may be impacted by the proposed wind farm.
- G. Noise Analysis. The Application shall be accompanied by a Noise Analysis. The noise analysis shall be prepared, stamped and signed by a Professional Engineer with a valid license from the New York State Department of Education, with a specialty in acoustics. Said study shall document the noise levels associated with the proposed Wind Farm, including a map of sound pressure levels in dbA, and shall document noise levels at property lines and at the nearest residence not on the Site (if access to the nearest residence is not available, the Planning Board may modify this requirement). The noise analysis shall include a separate analysis and map of low frequency noise levels in db.
- H. Shadow Flicker. The applicant shall conduct a study on potential shadow flicker caused by the blades interrupting sunlight. The study shall identify locations where shadow flicker may be caused by the WECS(s) on the wind farm and the expected durations of the flicker at these locations. The study shall identify areas where shadow flicker may interfere with residences and describe measures that shall be taken to eliminate or mitigate the problems.
- I. Tower Lighting. Towers supporting WECS shall not be lighted unless required by the Federal Aviation Administration (FAA). In such case where the FAA does require such lighting, the applicant shall propose the use of strobe lights during the day time switching to lower intensity red lighting at night.

- J. In approving a special use permit for a Commercial WECS, the Planning Board shall find:
1. That generation capacity of the proposed WECS is roughly equivalent to the peak demand load for the buildings and uses located on the premises.
  2. That generation capacity of the proposed WECS is roughly equivalent to the peak demand load for the buildings and uses located on the premises.
  3. That the colors of the WECS and support structure have been specified to minimize visual impact to the maximum extent possible.
  4. That all practical measures have been taken to minimize the impact on adjacent uses and residences in regard to shadow flicker, noise, and stray voltage discharge.
  5. That the WECS has been sited so that it does not pose a hazard to migrating birds.

### **31.7.20 ANIMAL HUSBANDRY, COMMERCIAL OR PRIVATE**

- A. Animal Husbandry is permitted by right in FP and RR Districts and on any located within a County Agricultural District in R-1, HR and I Districts.
- B. No unenclosed storage area for manure or other materials creating dust or odor shall be permitted within 100 feet of any street or residential property line nor within 100 feet of a stream or other water body or well providing a source of potable water. In no case shall a pasture be considered an unenclosed storage area for manure, nor shall a pasture be required to be set back 100 feet from any residential property line, street or water body. Any building occupied or structure used for the storage of manure or other materials creating dust or odor shall be located a minimum of sixty (60) feet from all lot lines. Manure storage facilities shall be constructed a minimum of 500 feet from any residential building on adjacent property.
- C. Site plan review by the Planning Board shall be required for manure storage facilities or for any structure that is not completely enclosed that is used primarily for the storage of liquid agricultural or food processing wastes.
- D. Any building occupied for animal husbandry shall be located a minimum of sixty (60) feet from all lot lines and a minimum of one hundred twenty (120) feet from all residential buildings on adjacent property, and a minimum of one hundred twenty (120) feet from all residences and wells used for potable water supply both on the property and on adjacent property.
- E. Animal husbandry uses on parcels under 20 acres in size shall be limited to a total of one (1) large animal or five (5) small animals per two acres.

**ARTICLE 8 - SUPPLEMENTARY REGULATIONS****31.8.1 OFF-STREET PARKING****A. General Requirements**

1. In all districts, an adequate number of off-street parking spaces shall be provided, at the time any building or structure is erected or is enlarged or increased in capacity.
2. For residential developments, no fewer than two (2) parking spaces shall be provided per dwelling unit.
3. For all developments, the parking standards shown in Table 1 shall be used as a guideline. Alternatives to the minimum number of parking spaces shown in Table 1 shall be accepted if the applicant demonstrates that such standards better reflect the anticipated needs of the facility.
4. Regarding existing structures: if adequate off-street parking pursuant to the provisions of this Local Law are physically impossible to meet, these parking provisions (such as to provide off-street parking alongside or behind the structure) shall be inapplicable.

**B. Size and Access**

1. Each off-street parking space shall have an area of not less than 200 square feet and shall have a minimum width of ten (10) feet. Parking for all uses, except for one- and two-family dwellings, shall be located outside of the required front setback. Except in the case of one and two family residences, no parking area provided hereunder shall be established for less than three spaces.
2. There shall be adequate provision for ingress and egress to all parking spaces. Access drives or driveways shall be not less than ten (10) feet wide.

**C. Parking for Churches, Synagogues, and Houses of Worship**

Number of required off-street parking spaces may be eliminated or reduced if there exists within 500 feet of the church, synagogue, or house of worship, public or private parking lots containing a sufficient number of off-street parking spaces to satisfy the requirements of Table 1.

**31.8.2 OFF-STREET LOADING**

- A. In any district, in connection with each building, or building group or part thereof hereafter erected, which is to be occupied for manufacturing or commercial uses or distribution by vehicle of material or merchandise, there shall be provided and maintained, on the same lot with such building, off-street loading berths in accordance with the requirements of Table.
- B. Size and Location. Each loading space shall be not less than ten (10) feet in width, 35 feet in length, and have a minimum clearance of 14 feet and may occupy all or any part of any required yard unless it abuts a residential zone, in which case it must meet the requirements as set forth in the Schedule of Regulations. Larger loading spaces may be required by the Planning Board during Site Plan Review if a larger size is warranted by the type of business.

**31.8.3 MINIMUM REQUIREMENTS FOR OFF-STREET PARKING AND LOADING**

A. Suggested minimum requirements for off-street parking are shown in Table 1. For structures and land uses that do not fall into the categories listed below, a reasonable and sufficient number of off-street parking spaces shall be determined in each case by the Planning Board during site plan review. Handicap parking and access shall be provided in accordance with all applicable federal, state, and local requirements.

TABLE 1: OFF-STREET PARKING

Use	Minimum Required Off-Street Parking Spaces
One or two family dwelling	2 per dwelling unit
Multi family dwellings	1.5 for each dwelling unit (1)
Churches, synagogues, and houses of worship	1 per 5 seats
Community buildings, used in connection with the operation of clubs, social halls, lodges, fraternal organizations, and similar uses	1 per 200 s.f. GFA
Home business	2 for each dwelling unit plus the number of spaces required for the proposed business
Hotel, motel, inn or rooming house	1 per rentable unit, plus 1 per 100 s.f. non-room GFA
Funeral home or mortuary	1 per 100 s.f. GFA
Garage or automobile repair shop	4 per bay or work area
Restaurant or other eating place	1 per 3 seats
Fast food restaurant	1 per 30 s.f. GFA
Retail or service business	1 per 300 s.f. GFA
Warehouse, distribution or other storage or wholesale building	1 per 5000 s.f. GFA
Bowling alley	4 per alley
Nursing home or hospital	1 per 2 beds
Medical offices or clinic	1 per 800 s.f. GFA
Manufacturing, assembly, research and other industrial uses	1 per 800 s.f. GFA
Offices	1 per 250 s.f. GFA
Bank or other financial institution	1 per 300 s.f. GFA
Theater	1 per 4 seats
Animal clinic/hospital/ kennels	1 per 200 s.f. GFA

GFA: Gross Floor Area

(1) Upon determining a total required for a multifamily building or development, any total number including a fraction shall be rounded up to the next highest whole number or integer.

B. Suggested minimum requirements for off-street loading are shown in Table 2

TABLE 2: OFF STREET LOADING

Uses	Square Feet of Floor Area (GFA)	Required Off-Street Loading Berths
Retail and Service	5,000-25,000	1
Establishments,	25,000-40,000	2
Commercial, Wholesale,	40,000-60,000	3
Manufacturing,	60,000-100,000	4
Storage and Miscellaneous Uses	For each additional 50,000 or fraction thereof	1 additional

C. Joint Facilities for Parking or Loading. Off-street parking and loading facilities for separate uses may be provided jointly if the total number of spaces so provided is not less than the sum of the separate requirements for each use. However, joint facilities may provide a smaller number of parking spaces if it can be demonstrated that the uses will not require the parking spaces at the same time.

**31.8.4 OUTDOOR LIGHTING REGULATIONS**

A. Intent. The purpose of this section is to establish regulations to allow for outdoor illumination levels which are appropriate for the use, and its safety and security, while minimizing the undesirable side effects of excessive illumination such as glare, light trespass, and light pollution. Over time, it is the intent that this section will allow for reasonably uniform illumination levels in the community.

B. Applicability. This regulation shall apply to all outdoor lighting fixtures installed during new construction, the expansion and alteration of existing structures, and well as the replacement of lighting fixtures (not the light bulb itself).

C. Approvals Required. For uses which require a site plan review, the Planning Board shall require a lighting site plan to be submitted showing the location, number, type/style, mounting height, and lighting levels produced on the ground (i.e. photometric report). All other uses shall conform to the general requirements contained herein.

D. General Requirements/Standards.

1. Outdoor lighting shall not be erected on structures in excess of 35 feet above ground level.
2. All outdoor lighting fixtures shall be shielded in such a manner so that illumination from the lighting fixture is contained on the property on which it originates from. (known as “*Light Trespass Limitations*”)
3. Exterior lighting fixtures on commercial, industrial, and multi-family properties shall conform to the Illuminating Engineer Society of North America (IESNA) criteria for full cut-off fixtures. In addition, the lighting levels shall be designed to meet the minimum requirements of the latest recommended levels set forth by IESNA. Where no standard from IESNA exists, the Planning Board shall determine the appropriate level in consultation with the Town Engineer, taking into account levels for the closest IESNA activity.
4. To minimize the indiscriminate use of illumination, it is recommended that outdoor lighting, except as required for security, be extinguished during non-operating hours. Where practicable, lighting installations are encouraged to include timers, sensors, and dimmers to reduce energy consumption and unnecessary lighting.

**E. Specific Requirements/Standards.**

1. **Parking Lots.** Parking lots shall not exceed light levels necessary for safety and locating vehicles at night. The lighting plan shall be designed so that the parking lot is lit from the outside perimeter inward and/or incorporate design features with the intent of eliminating off-site light spillage.
2. **Canopy and Roof Overhang.** Lights installed on canopies or roof overhangs shall be recessed so that the lens cover is flush with the bottom surface of the canopy or overhang. Lights shall not be mounted on the sides or top of the canopy or overhang.
3. **Outdoor Signs.** Lighting fixtures used to illuminate an outdoor sign shall be mounted on the top of the sign and shall be shielded or directed in such a way that the light illuminates the sign only. Internal illumination of a sign shall be concealed behind opaque, translucent, or other similar types of glass.
4. **Bottom-mounted or Up-lighting.** To comply with “Dark Skies” and minimize unnecessary lighting, up-lighting shall be only allowed for flagpoles that display Federal, State, and/or local government flags only, provided that the illumination is directed onto the flagpole only.

**F. Exemptions.** The following types of outdoor lighting are exempt from this regulation unless otherwise specified:

1. Street lighting installed by the Town of Gorham, Ontario County Highway Department, or the NYS Department of Transportation.
2. Low-voltage lighting as defined by the National Electric Code (NEC).
3. Holiday lighting.
4. Temporary construction and emergency lighting needed by police or emergency services provided the light is extinguished upon completion of the work needing the lighting.
5. Hazard warning lights required by a federal or state regulatory agency, except that all fixtures used must be as close as possible to the federally required minimum output.
6. Lighting associated with farm or agricultural operations. However, farm or agricultural operations within 100 feet of an adjacent residential dwelling shall be shielded to prevent light trespass onto the adjoining property.

**G. Prohibited Lighting.**

1. Blinking, flashing, strobe or search lights, except where required by FAA or other State or Federal law or regulations.
2. Exposed strip lighting used to illuminate building facades or signs.
3. Any light that may be confused with or construed as a traffic control device.

**31.8.5 ACCESSORY BUILDINGS AND STRUCTURES****A. Detached Accessory Buildings and Structures in all Residential Districts.**

Accessory buildings and structures that are not attached to a principal building may be erected in accordance with the following restrictions:

1. Detached accessory buildings and structures may be located anywhere on a parcel as long as the setback requirements of the zoning district are met.
2. Detached accessory buildings and structures shall be set back from side and rear property lines, the principal building, and other accessory structures in accordance with the following:

Size of Accessory Building or Structure	Required Setback From Side or Rear Property Line	Required Setback From Any Other Building Or Structure On The Property Or On Adjacent Property
Greater than 144 square feet	Same as for principal building	10 feet
144 square feet or less	5 feet	10 feet

- 3. Accessory structures may be allowed in front of the front building line of the principal structure if they meet the front setback requirements for principal structures.

**B. Attached Accessory Buildings and Structures in Residential Districts**

When an accessory building or structure is attached to the principal building, it shall comply in all respects with the requirements of this Local Law applicable to the principal building. At least 25% of the area of a wall of the accessory building shall be in common with and an integral part of the principal building to be considered an attached accessory structure.

- C. Exceptions. Gates, mailboxes, newspaper receptacles, ornamental structures such as entry pillars and statues, bus shelters and other similar roadside structures with less than 100 square feet in footprint. For farm stands, see definition. The locations of farm stands are limited to specific Zoning Districts in the Town.

**31.8.6 SIGNS**

Signs may be erected and maintained only when in compliance with the following provisions:

**A. Signs in Residential Districts**

The following are permitted in all Residential Districts as follows:

**1. Nameplates and Identification Signs**

- a. One (1) non-illuminated nameplate sign, situated within the property lines and bearing only the name of the principal occupant and/or the street number of a private dwelling and not exceeding two (2) square feet in area on each side, or four (4) square feet total area on two (2) sides.
- b. One (1) non-flashing sign advertising a farm, church or synagogue, residential subdivision or housing complex, library or museum, public building, park or playground, hospital or other such permitted use on such property, not exceeding 20 square feet area on one side, with no more than 2 sides, and located not less than ten (10) feet from any street or right-of-way or property line.
- c. Such signs may be located in any front or side yard, except in the LFO District where they shall be located in the rear or side yard.

**2. Real Estate Sales, Lease or Rental or Open House Signs:**

- a. A temporary non-flashing sign pertaining to the rental, lease, sale, construction, or open house in regard to sale of the lot or building on which it is placed. Such a sign shall be located within the property lines and shall not exceed four (4) square feet area on one side, or eight (8) square feet total area of both sides, and shall be removed after rental, lease, sale or construction is completed.
- b. Not more than two (2) such signs shall be placed upon any property unless such property fronts upon more than one street, in which event, two (2) more signs may be erected on each additional frontage.

- c. Such signs may be located in any front or side yard, except in the LFR where they shall be located in the rear or side yard.
  - d. Off premises signs: Signs advertising Open House or giving direction from a public road right of way to a property offered for sale are permitted subject to the size standards established in a. above, and as follows:
    - i. No more than one off premises sign shall be allowed per property that is for sale.
    - ii. No more than one directional sign shall exist at any public road intersection directing traffic in a single direction. In other words, if there are two properties for sale on a given road, only one sign directing traffic down that road is permitted. In addition, one sign directing traffic to a property for sale on one road is allowed at the same intersection where a sign exists directing traffic in a different direction for a different property for sale.
    - iii. Such directional signs shall be located outside the limits of a public road right-of-way. If located on private property, written permission of the landowner shall be required.
- B. Signs in Commercial and Industrial Districts. The following signs are permitted in all Commercial and Industrial Districts:
- 1. One (1) non-flashing sign, situated on the property on which the business or industry is being conducted, having an area of not more than 50 square feet on one side, or 100 square feet total area on two (2) sides, and observing a side yard setback of 15 feet and a front yard setback of ten (10) feet from the highway right-of-way.
  - 2. In addition, one (1) non-flashing sign may be erected which relates to the building or use on the same premises. Such sign shall not exceed 25 square feet in area on one side or a total of 50 square feet area of both sides if free standing. Such sign shall not be placed closer than 15 feet from the side lot line or the public street right-of-way.
- B. Regulations Applicable in all Districts.
- The following regulations shall apply to all permitted signs:
- 1. Maintenance - Signs shall be constructed of durable materials, maintained in good condition, and not allowed to become dilapidated.
  - 2. Height of Signs
    - a. No sign located on the roof of any building shall be higher than the height limit for such building in the district where such sign is located.
    - b. No free-standing sign shall be higher than 20 feet above the ground.
  - 3. Signs and lighting devices must be arranged so that they do not interfere with traffic control devices nor shine onto neighboring residences. All signs must be located so as to not constitute a traffic hazard, and shall not interfere with visibility along roads or at road intersections.
  - 4. Outdoor lighting for signs shall not be erected on structures in excess of 35 feet above the ground level, shall be focused directly upon the sign which it is intended to illuminate, and shall be shielded so that the direct light beams from the light source shall not cast light on neighboring properties.
  - 5. For any industrial, commercial or recreational use which by its nature may be deemed to generate substantial noise whether by mechanical or musical devices or by public participation or any other cause, the Planning Board may require such additional setbacks from property

lines and other arrangements as it may deem necessary to insure that said noise will not be detrimental or annoying to neighboring properties.

6. In business or industrial development groups within 100 feet of residential districts, fences, walls, or year-round screen planting shall be provided when necessary to shield adjacent residential districts.
7. Signs shall be informative, enhance the character of the community, and shall be consistent with the Comprehensive Plan. In rural areas, signs that are manufactured from wood or stone, or with the appearance of natural wood or stone, are recommended.
8. All signs shall be located outside the road right-of-way, except for traffic control devices erected by municipal, state, and federal entities. In addition, signs on private property shall adjacent to road intersections shall comply with the requirements specified in Section 7.7 herein.
9. Directional signs indicating entry and exit drive access to a property or business shall be no more than 3 feet in height with each face measuring no more than ten (10) inches in height and two (2) feet in length with no more than six (6) inch high lettering of either the word 'Enter' or 'Exit' and a short arrow indicating direction of vehicular travel. Such signs shall be located outside of the limit of the highway right-of-way.

#### C. Temporary and Seasonal Signs

1. Temporary signs advertising road side stands, garage sales, auctions, Christmas tree sales, and similar short duration events shall be allowed as a use of right as long as they meet all requirements of this paragraph.
2. Temporary signs for a single event or business shall be employed no more than 45 calendar days in any calendar year. Real estate "For Sale" or "For Rent" signs are exempted from this limitation.
3. Temporary signs shall be less than 4 square feet in area.
4. No more than 2 temporary signs shall be employed for a single business or event at one time.
5. Temporary signs shall not be located within the limits of a public road right-of-way.
6. Temporary signs shall be located in such a manner as to not interfere with traffic or pedestrian visibility.
7. Temporary signs shall be constructed of light weight, non-durable materials and shall generally appear and be temporary in nature.
8. Temporary signs shall be located on the same property where the road side stand or special event is located or will occur, or within 200 feet of such property with the written permission of any landowner on which said temporary sign or signs are located.

### **31.8.7 FENCES AND HEDGES**

The purpose of these regulations is to prohibit the erection of fences and hedges in the Town of Gorham that obstruct a view from neighboring premises, particularly in the areas adjoining Canandaigua Lake, or that obstruct visibility on streets and highways in densely populated areas.

#### A. General Requirements

1. A permit from the Zoning Officer shall be required to erect a fence within the Town of Gorham.
2. All fences and hedges shall be set back a minimum of 2 feet from all property lines. However, this requirement shall not apply in any Residential district if adjoining property owners agree, in writing, to place the fence along a property boundary.

3. No fence or hedge shall be erected or planted so as to encroach upon a public or private right-of-way.
4. All fences and hedges must be maintained on all sides in a safe, sound, and upright condition. The owner of the property shall be responsible for maintenance.
5. Any solid or partly solid (more than 50 percent opaque) metal fence is not permitted in the Town of Gorham.
6. In the R-1, HR, HC, or GB district no fence or hedge over four (4) feet high shall be erected within a required front setback, nor over six (6) feet high in any side or rear yard except as provided in 31.8.7.B herein. In the LFO district no fence higher than four (4) feet high shall be permitted.
7. In the FP and RR districts no restrictions shall be applied to fences or hedges used for agricultural or farm purposes, nor to any other hedges, hedgerows, or trees forming windbreaks in the FP and RR districts.
8. Fences and hedges on any lot used for purposes other than agriculture shall not be more than eight (8) feet in height.
9. I – Industrial - No fence or hedge over four (4) feet high shall be erected within 30 feet of the edge of a road. On a residence boundary line, no fence or hedge over eight (8) feet high shall be permitted.

#### B. Parks, Playgrounds and Recreational Facilities

1. A fence not exceeding eight (8) feet in height is permitted anywhere on any public playground, public park, or private school premises. However, this requirement shall not apply to chain link fences used for baseball/softball backstops or around tennis courts or other recreational facilities.
2. Chain-link fences enclosing tennis courts or other private recreational facilities on residential property shall not be subject to the height limitations in sub-section A above. However, such fences shall be subject to the setback requirements for principal structures.
3. Swimming Pools. Outdoor swimming pools shall be enclosed by a protective fence in accordance with the requirements of the New York State Uniform Fire Protection and Building Code.

### **31.8.8 LANDSCAPING, SCREENING AND BUFFER**

#### A. Intent

The following standards are intended to implement the goals and policies of the Comprehensive Plan by assuring an acceptable degree of buffering between land uses, particularly between residential and nonresidential uses, providing a balance between developed uses and open space, enhancing the visual and aesthetic appearance of the community and encouraging preservation of existing natural features. Specifically, these regulations are intended to:

1. Provide natural visual screening of parking areas and along property boundaries to protect the existing visual quality of adjacent lands.
2. Reduce surface runoff and minimize soil erosion through the natural filtering capability of landscaped areas.
3. Provide natural buffers that reduce glare and noise, provide wildlife corridors and protect wildlife habitats, wetlands, stream corridors and other significant environmental features.
4. Moderate the microclimate of parking areas by providing shade, absorbing reflected heat from paved surfaces and creating natural wind breaks.

5. Enhance the overall visual quality of the community by surrounding developed areas with a variety of plant materials that are consistent and compatible with the existing natural vegetation of the area.

#### B. Applicability

These landscaping regulations shall apply to all uses in all districts. More specifically, requirements and procedures shall be as follows:

1. Building permits for construction of new one-family or two-family dwellings in major subdivisions shall require preservation of existing vegetation or planting to provide two shade trees of two-inch caliper for each dwelling. Such tree(s) shall be located outside the public right-of-way in the front yard.
2. Major residential subdivisions shall be required to submit landscaping plans in accordance with Section 31.8.8.D of this section indicating appropriate landscaping of entrances, common open spaces and recreation areas and perimeter buffer areas.
3. Development activities requiring site plan approval shall submit, as part of such approval, a landscaping plan in accordance with 31.8.8.D of this section.

#### C. General Requirements

1. Existing site vegetation and unique site features, such as stonewalls, shall be incorporated into landscaping plans to the maximum extent feasible. Existing healthy trees which are retained shall be credited against the requirements of these regulations in accordance with their size and location.
2. Issuance of a Certificate of Occupancy shall require completion of lot grading, seeding and required landscaping or posting of a performance guaranty acceptable to the Zoning Officer if the applicant cannot perform the work due to seasonal impracticalities.
3. All required landscaping shall be of healthy stock, planted according to accepted horticultural practices. Landscaping plans shall clearly indicate who is responsible for plant maintenance during the first 12 months after planting, and a performance guaranty shall be posted for assuring replacement in kinds of plants, which die or become diseased within that time.
4. All required landscaping shall be maintained in healthy condition. Failure to maintain such landscaping or to replace dead or diseased landscaping required by this article shall constitute a violation of these regulations.
5. All plant material adjacent to parking areas, loading areas and driveways shall be protected by barriers, curbs or other means by damage from vehicles or from stormwater runoff.
6. Where existing conditions make compliance with these regulations not feasible, the Planning Board, at its discretion, may approve planters, plant boxes or pots containing trees, shrubs and/or flowers to comply with the intent of these regulations.
7. In cases where the edge of pavement within a public right-of-way does not coincide with the front lot line, the property owner shall landscape the area between the front lot line and the edge of the street pavement.
8. Trees for screening shall be of species and stock that will provide a visual screen from the ground up, at least 5 feet in height.

#### D. Landscaping Plan

1. Based on the scale and location of the project the Zoning Officer or Planning Board shall determine whether the landscaping plan must be prepared by a licensed landscape architect, landscape designer or other professional. All landscaping plans shall contain the following information:

- a. A title block with the name of the project, then name of the person preparing the plan, a scale, North arrow and date.
  - b. All existing significant plant materials on the site.
  - c. Existing and proposed structures.
  - d. Topographical contours at two-foot intervals.
  - e. Parking areas.
  - f. Access aisles.
  - g. Drainage patterns.
  - h. Location, size and description of all landscape materials existing and proposed, including all trees and shrubs, and shall identify those existing plant materials that are to be removed.
  - i. Other information as may be required by the Zoning Officer and/or the Planning Board.
2. Alternative landscaping plans may be submitted, provided that they meet the purpose and intent of these regulations.

### **31.8.9 BED AND BREAKFAST**

- A. Not more than four (4) bedrooms may be provided for such overnight accommodations.
- B. No fewer than two (2) parking spaces shall be provided for the dwelling, plus one (1) parking space for each rented bedroom.
- C. Site plan review by the Planning Board shall be required, in accordance with Article 10.

### **31.8.10 MOTOR VEHICLE AND BOAT SALES, REPAIR AND SERVICE ESTABLISHMENTS, INCLUDING GASOLINE STATIONS**

- A. Lot size shall be at least 20,000 square feet.
- B. Lot frontage on any street shall be at least 150 feet.
- C. Lot depth shall be at least 125 feet.
- D. Entrance and exit driveways shall have an unrestricted width of not less than 20 feet and not more than 30 feet, shall be located not less than ten (10) feet from any property line, and shall be so laid out as to avoid the necessity of any vehicle backing out across any public right-of-way. The appropriate access permit shall be obtained from the Town, County or State highway or transportation department.
- E. A suitable curbed landscaped area shall be maintained at least five (5) feet in depth along all street frontage not used as a driveway.
- F. Side yards of not less than 25 feet shall be provided along all lot lines adjacent to property zoned or used for residential or office purposes.
- G. All area lighting fixtures shall be so designed and located that no light source is visible from outside the property line, no direct rays fall outside the property line and no light fixture is more than 20 feet above the finished grade.
- H. Each such lot shall be provided with an office structure, including all appropriate sanitary facilities.

- I. The sale of used cars may be permitted, provided that all such vehicles shall be in a good state and condition of repair and can be operated at all times under their own power and shall comply at all times with all requirements of the laws of the State of New York and rules and regulations promulgated thereunder for operation thereof on public highways.
- J. All service or repair of motor vehicles, other than such minor servicing as change of tires or sale of gasoline or oil, shall be conducted within a building.
- K. No inoperative or partially dismantled automobile shall be stored on the premises for more than 90 days. All such vehicles shall be screened from view from adjacent properties and public streets. All automobile parts, dismantled vehicles and similar articles shall be stored within a building or screened from view from adjacent properties and public streets.
- L. No more than ten (10) licensed motor vehicles being serviced or repaired shall be stored or parked outdoors for more than 48 hours, and these shall be in areas effectively screened from all property lines.
- M. Each vehicle for sale is permitted one (1) sign per vehicle with a maximum area of one (1) square foot; this sign shall be displayed from inside the vehicle. Such vehicles shall have no other advertising or devices to attract attention.
- N. Additional requirements for gasoline sales:
  - 1. All bulk petroleum products or similar substances shall be adequately screened from view from adjoining properties and public streets.
  - 2. No gasoline or fuel pumps or tanks shall be located less than 15 feet from any street or property line, and 25 feet from a residential zoning district.
  - 3. Convenience store and/or other retail or service establishment may be permitted as an accessory use.
- O. A facility offering or providing automobile repair services shall have a valid license from New York State. An automobile repair facility operating without approval from New York State shall not be considered to be a pre-existing non-conforming use for the purpose of these regulations.

### **31.8.11 OUTDOOR STORAGE**

Outdoor storage in conjunction with a retail or wholesale business in the FP, and GB Districts is permitted, in accordance with the following requirements.

- A. Locations of all areas used for outdoor storage shall be shown on the site plan.
- B. No outdoor storage shall be permitted within the setback required for accessory buildings, unless this requirement is specifically waived by the Planning Board during Site Plan Review.
- C. In FP Districts, outdoor storage areas on any lot shall not exceed ten (10) percent of the aggregate ground coverage of all buildings on the lot. In the GB or I Districts, outdoor storage areas shall not exceed 20 percent of the area of the lot.

- D. All outdoor storage areas shall be enclosed by buildings and/or fences, walls, embankments or evergreen shrubs or trees so as substantially to screen such areas from view from any street or residential district. However, the Planning Board may determine, during Site Plan Review, that such enclosure is not necessary in connection with all or a portion of necessary and reasonable outdoor storage that is an adjunct to retail sales.

### **31.8.12 RECREATIONAL TRAILERS**

Recreational trailers shall not be occupied, outside of commercial campgrounds, either intermittently or permanently as a residence for more than three (3) weeks in any R district, or more than six (6) weeks in all other zoning districts, within any six (6) month period.

### **31.8.13 INCENTIVE ZONING**

- A. The purpose and intent of these provisions are to offer incentives to applicants who provide amenities that assist the town to implement specific physical, cultural and social policies in the current Comprehensive Plan of the Town of Gorham, in accordance with Section 261-b of the NYS Town Law, and in coordination with other community planning mechanisms or land use techniques.
- B. Districts designated for incentives  
The Planned Development District (PDD), Single Family Residential District (R-1), Hamlet Residential District (HR) and the Planned Residential District (PRD) are designated as “receiving areas” for public amenities in exchange for incentives. The Town may increase the permissible density of residential development in exchange for a public amenity offered by the applicant to the Town.
- C. Amenities for which incentives may be offered.  
The following amenities may be located either on or off the site of the subject application:
1. Development rights (conservation easements) on farmland demonstrated to be viable for continued agricultural production in the Town of Gorham. The transfer of development rights for farmland also applies to farmers who own multiple parcels and wish to transfer development rights to less productive sites.
  2. Permanent protection of open space in a form acceptable to the Town Board.
  3. Preservation of significant environmental, cultural or historic resources.
  4. Public parks and recreation facilities.
  5. Any combination of the above-listed amenities
- D. Incentives permitted  
As an incentive in exchange for a public amenity, the Town Board may allow an increase in the number and/or density of residential units, up to a maximum of 16 units per acre. In general, the number of additional dwelling units permitted as an incentive shall not exceed the number that would be permitted in a conventional subdivision on the property to be preserved.
- E. Criteria and procedure for approval
1. Applications for incentives in exchange for amenities shall be submitted to the Town Board. Applications shall include the following information:

- a. A narrative description of the proposed amenity. For conservation easements, the narrative shall address the following characteristics of the land proposed to be protected by easement:
  - i. Soil productivity and crop yields
  - ii. Size of farm (minimum size of 40 acres)
  - iii. Location of farm (should be in a predominantly agricultural area)
  - iv. Other environmental or scenic qualities (to provide benefits to general citizenry)
  - v. The narrative shall explain how the amenity helps implement the physical, social or cultural policies of the most current Town Comprehensive Plan as supplemented by the local laws and ordinances adopted by the Town Board.
  - vi. The narrative shall specify the number of dwelling units that could be constructed in a conventional subdivision on the property to be preserved.
- b. The requested incentive (i.e., requested number and/or density of residential development.) When development rights are transferred between agricultural properties with a single farmer-owner, proof shall be provided that explains why the land receiving the incentive is less productive (e.g. soil type, lot dimensions/shape, etc.)
2. The Town Board shall schedule and hold a public hearing on the proposed application, and shall publish a notice of such hearing at least five (5) days in advance. Such hearing may be held in conjunction with other hearings required in the review of the proposed development.
3. All applicable requirements of the State Environmental Quality Review Act (SEQR) shall be complied with as part of the review and hearing process. In addition to other information that may be required as part of an environmental assessment of the proposal, the assessment shall include verification that any special service district in which the proposal is to be located has adequate public utilities and/or service facilities to:
  - a. First, serve the existing residents of that district at the time of the amenity/incentive proposal; and
  - b. Then, serve the additional residential development permitted as an incentive, as well as the needs of any on-site amenity.
4. The following findings must be made by the Town Board prior to the approval of an incentive.
  - a. That the requirements of SEQR have been met.
  - b. That the proposed amenity provides sufficient public benefit to warrant granting the requested incentive (i.e., additional residential density.)
  - c. That the particular incentive granted is in relative proportion to the value and importance of the amenity provided.
  - d. That the project is in harmony with the purpose and intent of this chapter and the Town's Comprehensive Plan and will add to the long-term assets of the community.
5. The Town Board may impose conditions on a project to ensure the above findings are achieved through the subsequent site plan review and construction phases of the project. The Town Board may grant a waiver based on affirmative findings of fact or may deny an application for a waiver. Thereafter, the Planning Board is authorized to act on an application for subdivision/site plan review pursuant to the Code of the Town of Gorham.
6. The Town Board is not obligated to accept the proposed amenity.

#### **31.8.14 PERFORMANCE STANDARDS**

##### **A. Applicability**

##### **1. Planning Board Action**

All uses subject to the requirements of this section may be established and maintained if their operation is approved by the Planning Board as being in conformance with the standards and

regulations limiting dangerous and objectionable elements, such as dust, smoke, odor, fumes, noise or vibration. In approving the site plan, the Planning Board shall decide whether the proposed use will conform to these applicable performance standards or any additional performance standards required by state or federal laws or which are generally recognized performance standards for a given industry.

2. Use Subject To The Performance Standards Procedures

- a. All uses subject to site plan review must comply with these performance standards.
- b. In addition, if the Code Enforcement Officer has reasonable grounds to believe that any other existing or proposed use violates any of the performance standards, such proposed use may be required to certify compliance with these performance standards or such existing use may be cited for violation of these regulations.

B. Performance Standards and Procedures

1. The Code Enforcement Officer as part of the sketch plan conference shall tentatively identify whether a proposed use will be required to certify compliance with any of the performance standards listed in this section. Certification may require signing a written statement or presentation of construction detail and a description of the specifications for the mechanisms and techniques to be used in restricting the emissions of any dangerous and objectionable elements. The applicant shall also file with such plans and specifications an affidavit acknowledging understanding and stating agreement to conform to the same at all times. Any information which is designated by the applicant as a trade secret and submitted herewith will be treated as confidential under provisions of the New York State Freedom of Information Law. During the course of Site Plan Review, the Planning Board will determine if the applicant's proposal falls within the performance standards based upon information provided by the applicant. The Code Enforcement Officer can require the applicant to show that the construction detail and a description of the specifications for the mechanisms and techniques is in compliance with the standards set forth in this section.

2. Vibration

- a. No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or beyond the lot lines, nor shall any vibrations produced exceed 0.002g peak at up to a frequency of 50 cycles per second, measured at or beyond the lot lines using either seismic or electronic vibration measuring equipment.
- b. Vibrations occurring at higher than a frequency of 50 cycles per second or a periodic vibration shall not induce accelerations exceeding 0.001 g. Single impulse periodic vibrations occurring at an average interval greater than five minutes shall not induce accelerations exceeding 0.01 g.

3. Noise

- a. The maximum decibel level radiated by any use or facility at any lot lines shall not exceed the values in the designated octave bands given in Table I. The sound-pressure level shall be measured with a second-level meter and associated octave-band analyzer conforming to standards prescribed by the American Standards Association. (American Standard Sound-Level Meters for Measurement of Noise and Other Sound, Z24.3-1944, American Standards Association, Inc., New York, and American Standard Specifications for an Octave-Bank Filter Set for the Analysis of Noise and Other Sound, Z24.10-1953, American Standards Association, Inc., New York, New York, shall be used.)

Table I	
Frequency Band (cycles per second)	Maximum Permitted Sound-Pressure Level (decibels)
0 to 75	69
75 to 150	60
150 to 300	56
300 to 600	51
600 to 1,200	42
1,200 to 2,400	40
2,400 to 4,800	38
4,800 to 10,000	35

b. Where any use adjoins a residential or mixed use district at any point at the district boundary, the maximum permitted decibel levels in all octave bands shall be reduced by six decibels from the maximum levels set forth in Table I.

4. Smoke

The density emission of smoke or any other discharge into the atmosphere during normal operations shall not exceed visible gray smoke of a shade equal to or darker than No. 2 on the standard Ringelmann Chart. (A Ringelmann Chart is a chart published by the United States Bureau of Mines, which shows graduated shades of gray for use in estimating the light-obscuring capacity of smoke). These provisions applicable to visible gray smoke shall also apply to visible smoke of a different color but with an apparent equivalent capacity

5. Odor

No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detectable when diluted in the ratio of one volume of odorous air emitted to four volumes of clean air. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system so that control will be maintained if the primary safeguard system should fail. There is hereby established, as a guide in determining such quantities of offensive odors, in Table III, Odor Thresholds, in chapter 5 of the Air Pollution Abatement Manual, Copyright 1959, by the Manufacturing Chemical Association, Inc., Washington, D.C., as said manual and/or table is subsequently amended.

6. Fly ash, dust, fumes, vapors, gases and other forms of air pollution

No emission shall be permitted which can cause any damage to health, animals, vegetation or other forms of property or which can cause any excessive soiling at any point beyond the boundaries of the lot. The concentration of such emission on or beyond any lot line shall not exceed 0.1 the maximum allowable concentration set forth in §12-29 of the Board of Standards and Appeals of the New York State Department of Labor, effective October 1, 1956, and any subsequent standards.

7. Electromagnetic radiation

It shall be unlawful to operate or cause to be operated any planned or intentional source of electromagnetic radiation which does not comply with the current regulations of the Federal Communications Commission regarding such sources or electromagnetic radiation, except that, for all governmental regulations regarding such sources of electromagnetic radiation of the Interdepartment Radio Advisory Committee shall take precedence over the regulations of the Federal Communications Commission. Further, said operation in compliance with the Federal regulations shall be unlawful if such radiation causes an abnormal degradation in performances of other electromagnetic radiators or electromagnetic receptors of quality and pro-per design because of proximity, primary field, blanketing, spurious reradiation, harmonic content or

modulation of energy conducted by power or telephone lines. The determination of abnormal degradation in performance and of quality and proper design shall be made in accordance with good engineering practices, as defined in the latest principles and standards of the American Institute of Radio Engineers and the Electronic Industries Association. In case of any conflict between the latest standards and principles of the above groups, the following precedence in interpretation of the standards and principles shall apply: American Institute of Electrical Engineers; Institute of Radio Engineers; and Electronic Industries Association.

8. Radioactive radiation

No activities shall be permitted which emit dangerous radioactivity at any point beyond the property lines. The handling of such radioactive materials, the discharge of such materials into the air and water and the disposal of radioactive wastes shall be in conformance with the regulations of the Nuclear Regulatory Commission, as set forth in Title 10, chapter 1, Part 20, as amended, and all applicable regulations of the State of New York.

9. Heat

Heat emitted at any or all points shall not at any time cause a temperature increase on any adjacent property in excess of 5°F., whether such change is in the air or on the ground, in a natural stream or lake or in any structure on such adjacent property.

10. Glare

“Dark Sky” compliant lighting fixtures are required, as defined by the following standards.

a. Direct glare.

No such direct glare shall be permitted, with the exception that parking areas and walkways may be illuminated by luminaries so hooded or shielded that the maximum angle of the cone of direct illumination shall be 60 degrees drawn perpendicular to the ground, and with the exception that such angle may be increased to 90 degrees if the luminary is less than four feet above ground.

b. Indirect glare

Indirect glare shall not exceed that value which is produced by an illumination of the reflecting surface, not to exceed 0.3 foot-candle (maximum) and 0.1 foot-candle (average). Deliberately induced sky-reflected glare, as by casting a beam upward for advertising purposes, is specifically prohibited

C. Liquid Or Solid Waste

No discharge shall be permitted at any point into a public sewer or stream or into the ground, except in accord with standards approved by the State and Ontario County Departments of Health and local ordinances, of any materials of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or offensive elements. There shall be no accumulation of solid wastes conducive to the breeding of rodents or insects.

D. Storm Water

For all developments disturbing more than one acre, New York State Department of Environmental Conservation (NYSDEC) requires that Municipalities receive a copy of the Storm Water Pollution Prevention Plan (SWPPP) prior to plan approval. Owner is required to comply with the NYSDEC’s “SPEDES General Permit for Storm Water Discharge from Construction Activity” Permit # G-P-02-01.

### 31.8.15 OUTDOOR WOOD FURNACES

- A. No person shall operate an Outdoor Wood Furnace unless such operation conforms with the manufacturer’s instructions regarding such operation and the requirements of this section

- B. All new Outdoor Wood Furnaces shall be constructed, established, installed, operated and maintained in conformance with the manufacturer's instructions and the requirements of this Chapter. In the event of a conflict, the requirements of this Chapter shall apply unless the manufacturer's instructions are stricter, in which case the manufacturer's instructions shall apply.
- C. The owner of any new Outdoor Wood Furnace shall produce the manufacturer's owner's manual or installation instructions to the Zoning Department to review prior to installation.
- D. All new Outdoor Wood Furnaces shall be tested and listed to appropriate safety standards such as UL, CAN/CSA, ANSI or other applicable safety standards.
- E. If an existing Outdoor Wood Furnace is, through the course of a property investigation by local authorities, creating a verifiable nuisance, as defined by local or state law, the following steps may be taken by the owner and the Town Zoning Department:
1. Cease and desist operating the unit until reasonable steps can be taken to ensure that the Outdoor Wood Furnace will not be a nuisance.
  2. Modifications made to the unit to eliminate the nuisance such as extending the chimney, or relocating the Outdoor Wood Furnace, in conformance with this Chapter, or both.
- F. Outdoor Wood Furnaces shall be constructed, established, installed, operated and maintained pursuant to the following conditions:
1. Fuel burned in any new or existing Outdoor Wood Furnace shall be only natural untreated wood, wood pellets, corn products or other listed fuels specifically permitted by the manufacturer's instructions such as fuel oil, natural gas or propane backup.
  2. The following fuels are strictly prohibited in new or existing Outdoor Wood Furnaces:
    - a. Processed wood products, painted or treated wood, including plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.
    - b. Rubbish or garbage, including but not limited to animal waste, food wastes, food packaging, food wraps.
    - c. Any plastic materials including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
    - d. Rubber including tires or other synthetic rubber-like products.
    - e. Newspaper, cardboard, or any paper with ink or dye products.
    - f. Any other items not specifically allowed by the manufacturer or this provision.
  3. Setbacks for any new Outdoor Wood Furnace:
    - a. The Outdoor Wood Furnace shall be located at least 50 feet from the property line.
    - b. The Outdoor Wood Furnace shall be located on the property in compliance with manufacturer's recommendations and or testing and listing requirements for clearance to combustible materials.
    - c. The Outdoor Wood Furnace shall be located:
      - i. a minimum of 250 feet from all residences not served by the Outdoor Wood Furnace; and
      - ii. so that a buildable area complying with the setback requirements of this local law remains somewhere on all lots within 250 feet of the location of the Outdoor Wood Furnace.
  4. Chimney heights for new and existing outdoor wood furnaces:

- a. The Outdoor Wood Furnace chimney shall extend a minimum of 15 feet above the ground surface or at least 2 feet above the peak of any residence not served by the Outdoor Wood Furnace located within 250 feet of such Outdoor Wood Furnace.
  - b. If there is an existing Outdoor Wood Furnace already installed and there is new construction of a residence not served by the Outdoor Wood Furnace within 250 feet of such Outdoor Wood Furnace then the owner of new construction shall be advised during site plan review.
5. An existing outdoor wood furnace shall not be made non-conforming by new construction placed within the 250 foot setback.
6. The application to install an Outdoor Wood furnace shall be made to the Building Inspector and shall be accompanied with a sketch plan showing the location of all properties within 250 feet, including their property boundaries.

## ARTICLE 9 - SPECIAL USE PERMIT PROCEDURES AND CRITERIA

### 31.9.1 PROCEDURES

#### A. Purpose

It is the intent of this Local Law to use Special Use Permits to control the impact of certain uses upon areas where they will be incompatible unless conditioned in a manner suitable to a particular location. Uses permitted by special use permit shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth in Article 9 in addition to all other requirements of this Local Law. All such uses may possess such unique and special characteristics that each specific use shall be considered as an individual case.

#### B. Authority for Review

The Planning Board of the Town of Gorham is authorized and empowered to review and approve, approve with conditions, or deny applications for Special Use Permits pursuant to the Zoning Local Law of the Town of Gorham.

#### C. Application Procedures

1. Application for a Special Use Permit pursuant to the Zoning Local Law of the Town of Gorham shall be made in writing to the Town of Gorham Zoning Officer on forms provided by the Zoning Officer. The application shall include all forms and supporting materials required for the State Environmental Quality Review (SEQR.)
2. Each application for a special use permit shall be accompanied by a site plan in accordance with Article 10.
3. Notification of Property Owners.  
The Town shall notify, by regular first class mail, all owners of property located within 500 feet of the property being the subject of the Special Use Permit Application. The cost of such notification shall be paid by the applicant.
4. The Zoning Officer shall issue no permits concerning the property being the subject of the Special Use Permit Application until final action on the Special Use Permit has been taken by the Planning Board.

#### D. Public Hearing and Final Report

1. The Planning Board shall hold a public hearing on the requested special use permit within 62 days after the receipt or referral of the application by the Planning Board. Date of receipt shall be considered the first monthly meeting of the Planning Board following submissions of the application.
  - a. The notice of public hearing shall be published in accordance with Section 274-b of the Town Law of the State of New York.
  - b. The applicant shall place one (1) sign on the property for which the special use permit is requested. Said sign shall be provided by the Zoning Officer. The sign shall be placed in a location that is easily read from a public street. The sign shall specify the date, time and place of the public hearing and a telephone number to call for more specific information. Such sign shall be placed on the site not less than ten (10) days prior to the public hearing and shall be brought to the hearing by the applicant or his designated representative.
2. Within 62 days after the date of the hearing, the Planning Board shall approve with or without modifications or deny the special use permit. This time may be extended upon mutual consent of the Planning Board and the applicant.

3. The Planning Board shall by resolution and in writing state any changes or modifications in the submitted plans necessary for approval of a special use permit.
  4. Site plan review shall be required of all special uses. The applicant may choose to submit materials required for a site plan review either simultaneous with the application for a special use permit, or after approval of the special permit, with or without modifications, has been received from the Planning Board.
- E. Existing Violations. No person shall be issued a special use permit for a property upon which there is an existing violation of this or any other Local Law.
- F. Expiration. A special use permit shall expire if the special use shall cease for more than one (1) year for any reason.
- G. The Planning Board may waive any of the requirements specified in Article 9, provided that such requirements are found not to be essential to the public health, safety or general welfare or are inappropriate to a particular special use permit.
- H. The Zoning Officer shall periodically inspect the premises of a use authorized and approved with a special use permit. The Planning Board may specify an inspection interval or schedule that is appropriate to the type of use. The inspection shall determine that the use is being operated consistent with the terms and conditions established by the Planning Board in approving the permit. The Zoning Officer shall provide a report of each inspection to the Planning Board and shall notify the Planning Board of any violation of permit conditions.
- I. The Planning Board shall retain the right to revoke any permit issued hereunder should the applicant or applicant's tenant violate any provision of this Article or any condition imposed upon the issuance of the special permit and may further revoke said permit upon a finding that the condition of the premises is not being maintained pursuant to the requirements of this Local Law. Said revocation shall be after a hearing held on notice to the applicant and, if known, the tenant.
- J. If the Zoning Officer determines that an area variance is required, he or she shall transmit a copy of the complete application and supporting documents to the Zoning Board of Appeals. Change of ownership. A Special Use Permit shall continue to be valid upon change in ownership of the property, unless the Planning Board specifies a different term in its approval of the special use permit.
- K. General Conditions and Standards for all Special Uses
1. That the use will not be detrimental in any way to the health, safety, and welfare of the residents of the Town of Gorham.
  2. That the proposed use will be in harmony with the neighborhood in which premises are situated.
  3. That the proposed use will not be detrimental to residents of the neighborhood in which the use is situated or cause a significant decrease in the value of surrounding properties.
  4. That the proposed use will not cause an undue increase in the town population or result in an undue concentration of residents in any one area.
  5. That the proposed use will not create any significant increase in traffic volume and shall be located on or have direct access to, public highways of sufficient size, volume and construction

to accommodate safely and adequately without congestion, any projected traffic the use may generate, along with the actual and projected traffic for the area.

6. That the orderly development of the Town will be insured and any proposed use shall not cause an increase in town residents or an influx of persons beyond that which can be adequately accommodated by schools, highways and other governmental facilities and services, giving due consideration to the general projected increase of town residents.
7. That the proposed use and its facilities and appurtenances will in no way, directly or indirectly, materially alter the ecology or increase the eutrophication, or in any other manner contribute to the degrading and deterioration of the quality of waters of Canandaigua Lake and surrounding streams.

#### L. Specific Conditions for all Special Uses

1. For any industrial, commercial, or recreational use which by its nature may be deemed to generate substantial noise, whether by mechanical or musical devices or by public participation or any other cause, the Board may require such additional setbacks from property lines and other arrangements as it may deem necessary to insure that said noise will not be detrimental or annoying to neighboring properties.
2. In business or industrial districts, and in commercial or industrial areas of a planned development, that lie within 100 feet of residential districts, fences, walls, or year-round screen planting when necessary to shield adjacent residential districts shall be provided.
3. The authorized Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit. Upon its granting of said special use permit, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the Town or must be met within the specific timeframe such Board set on such condition following issuance of the special use permit. The authorized Board is specifically authorized to condition such special use permit on being limited in duration provided such Board finds that such a durational limitation is directly related to and incidental to the proposed special use permit

#### M. Conditions for listed Special Uses

1. Accessory Apartment, see Section 31.9.2
2. Campgrounds, see Section 31.9.3
3. Cemeteries, see Section 31.9.4
4. Farm Market, see Section 31.9.7
5. Essential Services and Public Utilities (except for Telecommunications Facilities) , see Section 31.9.5
6. Extraction of Stone, Sand or Gravel, see Section 31.9.6
7. Heavy Industry, see Section 31.9.8
8. Home Business (Class A) , see Section 31.9.9
9. Home Business (Class B) , see Section 31.9.10
10. Kennel/Breeding Facilities, see Section 31.9.11
11. Animal Hospital, or Veterinary Facility, see Section 31.9.12
12. Outdoor Recreation Facilities, Including Golf Courses, Riding Academies, Hunting And Fishing Clubs, And Open Air Theaters, see Section 31.9.14
13. Public and Semi-Public Uses, see Section 9.15
14. Retreat/Conference Center, see Section 9.16
15. Telecommunications Facilities in the FP District, see Section 9.17
16. Temporary Housing to Support Agricultural Operations, see Section 9.18

17. Yacht Club, Marina, or Boat Launch, see Section 9.13
18. Special Uses within a Planned Development District (PDD), see Section 31.4.8
19. Seasonal Dwellings, see Section 31.9.19
20. Ground Floor Dwelling Units, see Section 31.9.21

### **31.9.2 ACCESSORY APARTMENT**

The Planning Board may approve a special use permit for an accessory apartment in any residential zoning district, provided that the following standards and conditions are maintained:

- A. A separate entrance shall be provided for the accessory apartment at the side or rear of the structure.
- B. No exterior changes shall be made to the dwelling that, in the opinion of the Planning Board, will alter the single-family character of the dwelling. The accessory apartment must be contained within the single-family dwelling (attached to the main dwelling by at least 25% of a common wall.)
- C. The accessory apartment shall contain at least 300 square feet and not more than 800 square feet of gross floor area but shall not exceed 35 percent of the total floor area of the principal residence structure.
- D. The lot shall meet the requirements of the zoning district for a single-family dwelling.
- E. The accessory apartment shall contain no more than two (2) conventional bedrooms.
- F. The owner of the residence in which the accessory unit is created shall occupy at least one of the dwelling units on the premises.
- G. No fewer than three (3) off-street parking spaces suitable for year-round use shall be provided on the lot. No new driveway access to the street shall be permitted. The Board may require the installation of screening and/or planting to buffer parking areas from the street or from adjoining residences.
- H. No more than one (1) accessory apartment may be created on any single property.
- I. All requirements of the New York State Department of Health pertaining to water supply and sewage disposal systems shall be satisfied prior to the approval of the special use permit.
- J. The permit shall be subject to renewal every five (5) years and may be renewed by application to the Zoning Officer. Prior to the renewal of the permit, the Zoning Officer shall inspect the building and determine that all of the criteria above and those imposed upon the original special use permit continue to be met.

### **31.9.3 CAMPGROUNDS**

The Planning Board may approve a special permit for campgrounds, providing that the following conditions and requirements are maintained:

- A. Campgrounds shall comply with the regulations pertaining to Campgrounds of the New York State Department of Health.
- B. The minimum campground area shall be 25 acres, of which 15 acres shall be recreation and open space areas. Such open space and recreational areas shall not include required lots, roads, streets, or parking areas.
- C. The minimum camping unit site shall be at least 3000 square feet for tent sites and 5000 square feet for all other sites. The camping unit shall be placed not closer than 50 feet to adjacent roads, adjacent camping units, and 300 feet from adjacent property lines, public streets, or road.
- D. Flexibility of campground site layout is encouraged, but with the following conditions:
  - 1. Sites designed for self-contained or self-propelled units shall have individual water supplies, individual electrical (waterproof) outlets, picnic tables, and refuse containers.
  - 2. Sites designed for tents, tent trailers, or detached trailers shall have permanent fireplaces, picnic tables, and refuse containers. In addition, water and toilet facilities shall not be more than 500 feet from each site.
  - 3. Pit Privies are not permitted.
- E. At least one (1) utility building is required which shall comply with the requirements of the Zoning Local Law and shall contain offices, telephone, first aid facilities, and portable fire protection equipment. All other uses shall be approved by the Board of Appeals.
- F. All internal streets and roads shall be at least 20 feet wide and shall be properly maintained.
- G. There shall be adequate shower, toilet, and sink facilities meeting the standards of the New York State Department of Health. All sewage disposal systems, including holding tanks, shall be designed by a licensed engineer.
- H. The campground area designed for the placement of camping units, streets, roads, accessory structures, shall have adequate drainage. All plans submitted with the Special Use permit application shall show finished grades and drainage.
- I. If the campground will utilize ponds or artificial lakes, the plans shall be prepared by a licensed engineer or other qualified professional. The Planning Board may require that the plans be reviewed by the USDA Natural Resource Conservation Service, the Soil and Water Conservation District, the Town Engineer, or other qualified professional. All required permits from the Department of Environmental Conservation or other agencies shall be obtained prior to the granting of the permit.
- J. The campground owner or operator shall:
  - 1. Maintain law and order
  - 2. Prohibit the use of motorbikes, go-carts, all terrain vehicles (ATV's), motorcycles, or similar vehicles in the camping areas, unless such vehicles are licensed and operated by a licensed operator.
  - 3. Provide for daily collection of refuse from each rented site.
  - 4. Have an attendant responsible for the facility, who is at least 21 years of age, while campground is open.

- K. Campgrounds shall only be operated during the months of May through October, unless such term is otherwise specifically extended or limited in the permit issued to the applicant.

#### **31.9.4 CEMETERIES**

- A. The Planning Board may grant a special use permit for cemeteries, subject to the following regulations. Cemeteries established as an accessory use to a church shall not be subject to these requirements. However, such cemeteries shall comply with all applicable State and local regulations.
- B. Minimum area shall be two (2) acres.
- C. No interment shall take place within 50 feet of any street or property line. Such fifty-foot buffer area shall be suitably landscaped so as to screen the cemetery from view insofar as is practicable.
- D. A crematory shall not be established outside of the Industrial zoning district. Such a crematory shall be located not less than 100 feet from the nearest property line of a lot in any R District.
- E. Caretakers' cottages, crematories (as permitted in C.), mausoleums and chapel/funeral homes which are incidental to the cemetery shall be permitted as accessory uses, provided that:
1. Any such structure shall comply with the setback and yard requirements for single-family dwellings for the district in which it is located.
  2. Off-street parking shall be in accordance with Section 31.8.1.
- F. All cemeteries, mausoleums and crematoria shall operate under applicable New York State, County and Town statutes, laws and ordinances and all rules and regulations promulgated pursuant to those statutes, laws and ordinances.
- G. Expansion of existing nonconforming cemetery.
1. Such expansion shall utilize contiguous property only or property contiguous to a road or right-of-way which separates the two (2) properties.
  2. Such additional land that is acquired shall remain in the same title as the existing cemetery.
- H. Provisions shall be made for the perpetual maintenance of the cemetery, so as to minimize the future financial liability of the Town, as required by New York State Law.

#### **31.9.5 PUBLIC UTILITIES**

Public utilities, except for telecommunications facilities, may be allowed as special permit uses in all districts by the Planning Board. Facilities that involve distribution only (such as pipelines, cables and wires) are defined in this Local Law as "essential services" and shall not require a special use permit. The Planning Board shall determine the following prior to approving a special permit:

- A. The proposed installation in a specific location is necessary and convenient for the efficiency of the essential services or the satisfactory and convenient provision of service to the area in which the particular use is located.

- B. Such facility shall not be located on a residential street (unless no other site is available) and shall be so located as to draw a minimum of vehicular traffic to and through such streets.
- C. The design of any building in connection with such facility shall conform to the general character of the area and will not adversely affect the safe and comfortable enjoyment of property in the district in which it is to be located.
- D. Adequate landscaping will be provided to create a visual and sound buffer between such facilities and adjacent property.
- E. Adequate and attractive fences and other safety devices will be provided.
- F. Adequate off-street parking shall be provided.
- G. All new and replacement electric distribution, telephone, cable TV and other lines shall be placed underground, if practical, as determined by the Planning Board during Site Plan Review.
- H. All points of necessary access, or transformers, shall be placed in secure structures at ground level.
- I. All major electrical transformer facilities or substations, if above ground, shall be secured by a fence; also no transformer or associated switches shall be closer than 100 feet from any lot line.

### **31.9.6 EXTRACTION OF STONE, SAND OR GRAVEL**

The extraction of stone, sand or gravel shall be permitted with a special use permit in the FP District, outside of the Watershed Protection Overlay District, provided the following standards and conditions are maintained.

- A. The extraction of stone, sand and gravel shall be in accordance with applicable statutory provisions.
- B. Notwithstanding the following regulations, property owners may conduct regrading, earthmoving, excavation and filling operations and may utilize gravel, stone or quarry in the preparation of building sites for activities in accordance with an approved final subdivision plat or for agricultural purposes thereon, provided that such soil, stone, gravel or other materials are not sold.
- C. The Planning Board may issue and renew permits for the excavation of minerals for commercial purposes and for the reclamation of the land affected by the excavation, including any operation accessory to the excavation or reclamation.
- D. Renewal of permits shall require that all activities undertaken pursuant to the initial permit shall have been conducted in compliance with the terms of such permit and all provisions of this chapter.
- E. Regulations applicable to the excavation of 1,000 or fewer tons of minerals [roughly equivalent to no more than 750 cubic yards or 40 to 50 truck loads] for commercial purposes within 12 consecutive calendar months and for the reclamation of the land affected by the excavation, including any operation accessory to the excavation or reclamation.
  - 1. The applicant shall submit for town approval information regarding the following:
    - a. Areas to be excavated.
    - b. The location and description of accessory uses.

- c. The location and description of fences and barricades.
  - d. The location and description of easements.
  - e. Hours of operation.
  - f. Plans for control of noise and dust.
  - g. Slopes before and after excavation.
  - h. Drainage of surface water and groundwater before and after excavation.
  - i. The proposed level of any impounded water.
  - j. Proposed revegetation after excavation.
  - k. The disposal of debris, refuse, tailings, waste or spoils.
  - l. Information from all serving utility companies as to the location of easements and underground facilities.
  - m. Anticipated number of tons per year to be excavated.
  - n. Any additional information required by the planning board to ensure that the provisions of this section are complied with.
  - o. Soil erosion and sedimentation control plan in compliance with the Town of Gorham's Soil Erosion and Sedimentation Control Local Law.
2. The Planning Board may issue a permit for a period of no more than one (1) year. Such permit may be renewed for additional periods no greater than that for which the permit was originally issued.
  3. Such permit shall be issued or renewed, provided that the excavation and reclamation:
    - a. conforms to the applicable regulations of this chapter; and
    - b. will not be detrimental to the appropriate and orderly development of the district in which it is situated or impair the value thereof;
  4. All excavations and reclamation shall be made only in accordance with plans approved by the Planning Board. These plans shall meet all applicable environmental protection codes established by federal, state and county agencies having jurisdiction. In addition to the information required in Section 4.a., these plans shall show:
    - a. the location of the site and its relation to neighboring properties and roads within 500 feet of the site;
    - b. the location of access drives into the site;
    - c. plans for erosion and sedimentation control during excavation and reclamation;
  5. A description of the mining method shall be provided indicating compliance with all applicable regulations and environmental codes. Such description shall include, but not necessarily be limited to, the method of extraction, the location and extent of any cut or excavation, the location and size of all stockpiles or spoil banks, the disposition of all materials used in and resulting from the mining and the location and treatment of haulageways.
  6. No excavation shall be closer than 100 feet to any street line or other property line, and no excavation below the grade of a street or a property line shall be closer than 100 feet therefrom. No excavation shall be allowed closer than 100 feet to a natural stream.
  7. Fences or barricades shall be erected on all sides of an excavation area that abuts a residential area or road to protect pedestrians and vehicles. All open pits or quarries shall be enclosed by fencing until they are refilled. The uphill side of side hill excavations shall be permanently fenced in a manner approved by the Planning Board.
  8. The hours of operation shall be only between 7:00 a.m. and 7:00 p.m. No operations will be allowed on Saturdays or on Sundays.
  9. All haulage ways leading to public highways shall be dust and mud free. All precautions shall be taken to prevent dust and dirt from being blown from the premises. Also, the first 100 feet of access from public roads shall be paved.

10. Erosion and sedimentation control measures shall be installed to keep all sediment damage on the applicant's property.
11. The final slope of any excavated material shall not exceed the normal limiting angle of repose of such material, except where a suitable detaining wall is built to provide lateral support.
12. Noise created by excavation and reclamation operations shall not be detrimental to adjacent property nor unduly interfere with the quiet enjoyment of adjacent property.
13. No rock crushing, cement plant or other crushing, grinding, polishing or cutting machines or other physical or chemical processes for treating the product of such excavation shall be permitted.
14. All rock blasting shall occur during daylight hours Monday through Friday and shall be conducted in accordance with all applicable regulations under the personal supervision of a person holding a current license and certificate of competence from the New York State Department of Labor. Before any blasting occurs, the applicant shall file evidence of insurance or shall file a bond in such form, amount and coverage as determined by the Planning Board and Town Attorney to be adequate in each case to indemnify any injured parties against damages arising from the blasting.
15. All operations shall be conducted in a safe manner with respect to the likelihood of hazard to persons, physical damage to adjacent land or improvements or damage to any street or user of a highway by reason of slides, sinking or collapse.
16. All debris, stumps, boulders and similar waste materials shall be removed from the site and properly disposed of or, in the case of inorganic material, buried and covered with a minimum of two (2) feet of compacted soil. All such materials shall have been identified to the Planning Board as part of the approved application permit.
17. Storage piles of materials obtained as a result of the mining operation, topsoil and waste materials, including but not limited to vegetation, subsoil, rock overburden and spoil, shall not be located closer to property lines than is permitted for excavations. Storage piles shall not include material classified as toxic by the New York State Department of Environmental Conservation. During excavation operations, all stockpiles of soil shall be seeded or otherwise treated to minimize the effects of erosion by wind or water upon public roads, streams or adjacent properties. After completion of excavation operations, waste materials shall be removed from the site or may be used in filling all open pits, quarries, etc. Piles of excess waste materials shall be leveled and the excavated areas shall be graded, topsoil added, seeded and planted to prevent erosion.
18. Subsoil and topsoil shall be respread over the excavation area to a minimum depth of one (1) foot [six (6) inches of topsoil and six (6) inches of subsoil]. This soil shall be treated with lime and fertilizer and seeded with a grass or legume mixture prescribed by the Planning Board. Trees or shrubs shall be planted in order to provide screening and natural beauty and to reduce erosion. The planted area shall be protected from erosion during the establishment period using generally accepted soil conservation practices. A plan describing the revegetation of reclaimed land, including the location, size and type of all materials to be planted and the type, location and rate of all seeding to be done, shall be included as part of the site plan submitted to the Planning Board.
19. An adequate and comprehensive drainage system shall be provided to convey the stormwater runoff originating on and crossing the premises in accordance with the natural direction of runoff for the total watershed area. During and upon completion of the excavation operation [within one (1) year after completion of the excavation operation] the land shall be left so that natural storm drainage leaves the property at the original drainage points. Also, the rate of drainage to any one point shall not be increased.

20. The reclamation method shall be such to allow for a future use permitted in the district in which the site is located. For sites to be reclaimed for residential purposes, a minimum depth of five (5) feet of undisturbed material above the water table shall be maintained during excavations.
  21. Within one (1) year after the termination of the excavation operation, all equipment, buildings and structures not consistent with the planned use of the reclaimed land and all unsightly evidence of the operation shall have been removed from the premises or disposed of by methods approved by the Planning Board or other authority having jurisdiction, and all restoration shall have been completed.
  22. Reclamation, where possible, shall provide for orderly, continuing reclamation concurrent with excavation operations, and all reclamation work shall be completed in accordance with a schedule accepted as a condition of the approved permit.
  23. The Planning Board shall require a cash bond or letter of credit to be posted, in an amount and form to be determined by that Board, ensuring conformance to approved excavation and reclamation plans and all applicable regulations. The Planning Board shall set a reasonable time limit for such bond, not to exceed one (1) year or the term of the permit or renewal, except in the case of continuing excavation operations when a bond may be renewed or extended with each permit renewal.
- F. Regulations applicable to the excavation of more than 1,000 tons of minerals [roughly equivalent to at least 750 cubic yards or 40 to 50 truck loads] for commercial purposes within 12 consecutive calendar months and for the reclamation of the land affected by the excavation, including any operation accessory to the excavation or reclamation.
1. The Planning Board may issue or renew a special use permit for such a use, provided that the proposed excavation and reclamation has been duly approved by the New York State Department of Environmental Conservation in accordance with the New York State Mined Land Reclamation Law, Title 27 of the New York State Environmental Law.
  2. All excavations and reclamation shall be made only in accordance with a mined land-use plan, including a mining and reclamation plan, which has been duly approved by the New York State Department of Environmental Conservation. This plan shall meet all applicable environmental protection codes established by federal, state and county agencies having jurisdiction. All permit application information, including mined land use plans, submitted to the Department of Environmental Conservation, along with all correspondence from the Department regarding the permit application, shall be submitted to the town.
  3. The town shall notify the Department of Environmental Conservation of local concerns with regard to activities subject to this subsection.

### **31.9.7 FARM MARKET**

- A. The Planning Board may issue a special permit for a Farm Market in the FP Farmland Priority District provided that the following standards and requirements are maintained.
- B. The applicant shall obtain written approval from the owner of the property on which the farm market is to be located.
- C. The applicant shall obtain a driveway permit from the appropriate agency (Town Highway Superintendent, NYS Department of Transportation, or County Highway Department).
- D. Sufficient parking and loading area shall be provided.

- E. The applicant shall provide information regarding potential traffic generated by the proposed farm market, and shall demonstrate that such increased traffic shall not significantly impact neighboring residents or other property.

### **31.9.8 HEAVY INDUSTRY**

The Planning Board may issue a special permit for a Heavy Industrial business, as defined herein, in the I or PD District, provided that the following standards and requirements are maintained.

- A. All material shall be stored, handled, unloaded, loaded and/or transferred indoors on an impervious floor surface, including the storage of containers containing recyclable or other materials.
- B. Periodic inspections by the Zoning Officer shall be permitted by the applicant and/or owner.
- C. A minimum lot area of ten (10) acres shall be required.
- D. The applicant must demonstrate that adequate on-site parking is provided so vehicles waiting to load or unload will not park on public highways.
- E. Hours of operation shall be demonstrated by the applicant to be limited to minimize impact on surrounding properties.
- F. Any structure located on the site shall be a minimum distance of 500 feet from property zoned for residential use.
- G. The applicant shall submit a route plan to indicate that traffic generated by the facility will have a minimal impact on residential streets. Said plan shall state the number and frequency of trips to and from the facility.
- H. All outdoor storage areas shall be suitably screened and indicated on the site plan.
- I. On-street parking of vehicles, containers or any other equipment or materials in any way connected with the facility shall be prohibited.
- J. The maximum height of the facility shall not exceed 40 feet.
- K. All buildings shall be set back 200 feet from all natural water bodies. A 100-foot buffer shall be required when adjoining residential and commercial zones.
- L. The Planning Board may incorporate as a condition of issuance of any such permit any safeguards it deems necessary to protect the public health, safety and welfare. Said special permit shall be reviewed for compliance every five (5) years or such shorter term as the Planning Board may deem proper.

### **31.9.9 HOME BUSINESS (CLASS A)**

- A. Intent

The purpose of this Section is to provide opportunities for economic advancement among residents

of the Town, to protect the character of residential and agricultural areas of the Town. Businesses established pursuant to this section are expected to blend in with the existing character of the area in which they are located.

B. Type of Business

A variety of commercial and manufacturing uses may be permitted, provided that the requirements of this section are met.

C. Neighborhood character

The appearance of the structure shall not be altered and the business shall not be conducted in a manner that would cause the premises to differ from its existing neighborhood character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, noises or vibrations. No lights or noise from the home business shall be noticeable at any time from any public street or neighboring property.

D. Operation and Employees

1. The operator of the home business shall reside in the single-family dwelling located on the same lot as the home business.
2. No more than four (4) persons, other than members of the family occupying such dwelling, shall be employed in such home business at any one time.

E. Floor Area

1. No more than 40 percent of the gross floor area of a dwelling shall be used for the conduct of a home business, up to a maximum of 1,000 square feet, provided that the portion of the dwelling used for residential purposes shall comply with all applicable laws and codes.
2. The entire gross floor area of no more than one (1) detached accessory structure may also be permitted for use of a home business, in addition to space within the dwelling.

F. Outdoor Storage of Equipment and Materials

1. In the RR, R-1 and HR Districts, no outside storage of materials used in the home business shall be permitted. In the FP District, any outside storage shall be adequately screened from view from public streets and neighboring property. Such screening may consist of vegetation, fencing, or a combination.
2. A maximum of two (2) pieces of equipment, other than commercial vehicles, may be parked outdoors on the lot. Such equipment shall be operable and necessary for the conduct of the home business.
3. Outdoor storage of equipment used for the home business shall only be permitted in the rear yard. Such equipment shall be completely screened from view from neighboring properties and public roads.

G. Outdoor Display of Goods

No outdoor display of goods shall be permitted.

H. Signage

1. One (1) sign shall be permitted to identify a home business. No sign shall have more than two (2) printed sides.
2. In the RR, R-1, and HR, Districts, such sign shall not exceed (4) four square feet in area per side.

3. In the FP Farmland Priority District, such sign shall not exceed twelve (12) square feet in area per side.
- I. Commercial Vehicles  
In the RR, R-1, and HR District, no more than two (2) commercial vehicles, as defined herein, may be used in connection with the home business. Such vehicles may be parked outside, but not within the setbacks specified in paragraph N of this Section.
  - J. Number of Clients  
With exception of family day care, the home business shall be conducted in such a manner that at any one time, the maximum number of clients, customers and others (except for employees) at the site of the home business is not greater than four (4).
  - K. Hours of Operation  
The home business shall be conducted in such a manner that all the clients, customers and others coming to do business at the site of the home business shall arrive and depart between the hours of 7:00 a.m. and 9:00 p.m.
  - L. Number of Home Businesses Permitted  
More than one (1) home business may be permitted for each residential property provided that the combined impact of such home businesses does not exceed any of the thresholds established by this Section.
  - M. Parking  
Off-street parking shall be provided in accordance with the provisions of Section 8.1. The off-street parking for the home business shall be in addition to the parking required for the residence.
  - N. Setbacks  
Any accessory building used in conjunction with the home business shall be set back a minimum of 75 feet from all side and rear property lines. Off-street parking and loading spaces, as well as outdoor storage and display, shall be set back a minimum of 50 feet from all side and rear property lines and not less than 75 feet from all public rights-of-way.
  - O. Deliveries and Vehicle Trips per Week
    1. No business shall be permitted that requires tractor-trailer deliveries on a regular basis (i.e., more than once per week) unless the Planning Board determines that the site can provide adequate access and turnaround space.
    2. In the RR, R-1 and HR District, no more than 20 total vehicle trips per week shall be permitted. These shall include clients, customers, and deliveries, but shall exclude employees.
  - P. Access
    1. Any business involving direct sales to the public shall have frontage on a public road.
    2. Such business shall obtain the appropriate driveway permit from the Town, County or State Department of Transportation.

**31.9.10 HOME BUSINESS (CLASS B)**

The Planning Board shall permit home businesses (Class B) with a special use permit in the FP District, provided the following requirements and conditions are maintained.

**A. Intent**

The purpose of this Section is to provide opportunities for economic advancement among residents of the Town, and to protect the character of residential and agricultural areas of the Town. Businesses established pursuant to this section are expected to blend in with the existing character of the area in which they are located.

**B. Type of Business**

A variety of commercial and manufacturing uses may be permitted, provided that the requirements of this section are met. However, no business that is listed as a use that requires a special use permit in any commercial or industrial zoning district shall be permitted as a home business.

**C. Neighborhood character**

The appearance of the structure shall not be altered and the business shall not be conducted in a manner that would cause the premises to differ from its existing neighborhood character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, noises or vibrations. No lights or noise from the home business shall be noticeable at any time from any public street or neighboring property.

**D. Operation and Employees**

1. The operator of the home business shall reside in the single-family dwelling located on the same lot as the home business. However, the Planning Board may waive this requirement.
2. No more than 15 persons, other than members of the family occupying such dwelling, shall be employed in such home business at any one time.

**E. Floor Area**

1. No more than 40 percent of the gross floor area of a dwelling shall be used for the conduct of a home business, up to a maximum of 1,000 square feet, provided that the portion of the dwelling used for residential purposes shall comply with all applicable laws and codes.
2. The entire gross floor area of no more than one (1) detached accessory structure may also be permitted for use of a home business, in addition to space within the dwelling.

**F. Outdoor Storage of Equipment and Materials**

1. Outside storage of materials used in the home business may be permitted. Such storage shall be adequately screened from view from public streets and neighboring property. Such screening may consist of vegetation, fencing, or a combination of plantings and fencing.
2. A maximum of two (2) pieces of equipment, other than commercial vehicles, may be parked or stored outdoors on the lot. Such equipment shall be operable and necessary for the conduct of the home business.
3. Outdoor storage of equipment used for the home business shall only be permitted in the rear yard. Such equipment shall be completely screened from view from neighboring properties and public roads.

**G. Outdoor Display of Goods**

Outdoor display of goods may be permitted, provided that the goods are displayed in a neat and orderly manner. The Planning Board may limit the quantity of goods displayed and/or the amount of land utilized for display of goods, and may require appropriate screening and/or buffers. Areas proposed for the outdoor display of goods must be clearly delineated in the special use permit application.

H. Signage

1. One (1) sign shall be permitted to identify a home business.
2. Such sign shall have no more than two (2) printed sides and shall not exceed twenty (20) square feet in area per side.

I. Commercial Vehicles

Commercial vehicles used in connection with the home business may be parked outside, but not within the setbacks specified in paragraph 12 of this Section. The Planning Board may require appropriate screening to minimize the visual impact of such vehicles on neighboring properties.

J. Number of Clients

The home business shall be conducted in such a manner that at any one time, the maximum number of clients, customers and others (except for employees) at the site of the home business is not greater than ten (10).

K. Hours of Operation

The home business shall be conducted in such a manner that all the clients, customers and others coming to do business at the site of the home business shall arrive and depart between the hours of 7:00 a.m. and 9:00 p.m.

L. Number of Home Businesses Permitted

More than one (1) home business may be permitted for each residential property provided that the combined impact of such home businesses does not exceed any of the thresholds established by this Section.

M. Parking

Off-street parking shall be provided in accordance with the provisions of Section 8.1 and the Schedule. The off-street parking for the home business shall be in addition to the parking required for the residence.

N. Setbacks

Any accessory building used in conjunction with the home business shall be set back a minimum of 75 feet from all property lines. Off-street parking and loading spaces, as well as outdoor storage and display, shall be set back a minimum of 50 feet from all side and rear property lines and not less than 75 feet from all public rights-of-way.

O. Deliveries

Tractor-trailer deliveries shall be permitted, unless the Planning Board determines that the site does not provide adequate access and/or turnaround space.

P. Inspection

The Zoning Officer shall review the premises operating under the Special Use Permit for compliance every five (5) years, and within six (6) months of change of ownership.

### **31.9.11 KENNELS AND BREEDING FACILITIES**

#### **A. Purpose**

The Planning Board may grant a Special Use Permit as an accessory use, for a boarding, private, commercial, rescue organization facility, rescue organization fostering facility in the FP and RR districts provided that the standards and provisions of this section are met and maintained.

#### **B. STANDARDS:**

1. The minimum lot area for all kennels, commercial breeding facilities, private breeding facilities, rescue organizations facilities, and rescue organization network fostering facilities shall be a minimum of 5 acres, and shall conform to all requirements of the zoning district for principal uses.
2. No structure to house animals within a kennel shall be closer than 100 feet to any front, side or rear property line.
3. No outdoor area enclosed by fences for the use of animals shall be permitted within a front yard. All outside runs, enclosed by fences for the use of animals shall be set back not less than 200 feet from any side or rear property line.
4. No excrement, manure or other odor or dust producing substance shall be stored or disposed of within 100 feet of any lot line.
5. A Waste Management Plan shall be submitted at the time of application, showing appropriate measures for the storage, disposal, treatment of all waste, manure, contaminated materials that meet all applicable town, county or state regulations and approval of the Town Planning Board.
6. Shall submit and maintain Proof of Compliance with United States Department of Agriculture and Markets Laws, New York State Business Law, and licensing requiring applicable to said operation.
7. Mortalities Plan – shall submit and follow a mortalities plan including appropriate disposal plan.
8. Shall submit a site plan providing adequate plantings and buffering shall be provided and maintained to minimize the impact of inherent nuisance such as noise and odor.

#### **C. INSPECTIONS:**

1. Prior to commencement of use, the structure shall be inspected by the Zoning Officer for compliance with all laws, ordinances, rules and regulations applicable.
2. Inspection reports from USDA inspector shall be copied and supplied to the Zoning Office.
3. The owner/operator shall allow inspections by a representative of the Town of Gorham of the operation at unannounced times to insure compliance with all conditions and requirements set forth by the Town of Gorham.
4. A written report by Town representative shall be filed in Town offices.
5. Violations shall be corrected within ten (10) days and prior to re-inspection and subject to the Penalties established in Article 11 herein.

#### **D. Pre-existing Dog/Cat Boarding and Breeding Facilities**

1. Pre-existing facilities shall be considered non-conforming and must apply for a Special Use review and Permit approval by the Planning Board.
2. Non-conformities must meet all standards set in Section B Standards, above.

3. Such pre-existing operations shall be subject to the same regulations as specified in this local law with an annual renewal required and an annual inspection.
4. If the operation has a valid USDA operating permit they will automatically receive a special use permit with a filing of the site plan and a copy of the USDA certification with Town Zoning Office, subject to inspection by Town of Gorham Zoning Officer.
5. Pre-existing facilities shall have 90 days after the date that the law becomes effective, after it is filed with the Secretary of State, to apply for a special use permit
6. Any operation with more than two major violations/citations from USDA that remain unaddressed for a period of more than thirty days shall result in termination of the special use permit.

### **31.9.12 VETERINARY CLINIC OR ANIMAL HOSPITAL**

The Planning Board may grant a special use permit for veterinary clinics or office or animal hospital in the FP, RR, GB or I district provided that the following standards and provisions are maintained:

- A. The minimum lot area for kennels and veterinary animal clinics and offices with facilities for exterior runs shall be five (5) acres. For veterinary animal clinics or offices without facilities and space for exterior runs, the minimum lot area shall conform to the requirements of the zoning district for principal uses.
- B. No structure to house animals within a kennel shall be closer than 100 feet to any side or rear property line.
- C. No outdoor area enclosed by fences for the use of animals shall be permitted within a front yard. All enclosed fence areas shall be set back not less than 100 feet from any side or rear property line.
- D. No excrement, manure or other odor- or dust-producing substance shall be stored or disposed of within 100 feet of any lot line.
- E. Cadavers, excrement and contaminated materials shall be disposed of in accordance with the applicable town, county or state laws
- F. Adequate plantings and buffering shall be provided and maintained to minimize the impact of inherent nuisance such as noise and odor.
- G. In issuing the special permit for animal kennels, the Planning Board may stipulate the maximum number and type of animals to be boarded or trained.
- H. The owner/operator shall allow inspections by a representative of the Town of Gorham of the operation at unannounced times to insure compliance with all conditions and requirements set forth by the Town of Gorham.

### **31.9.13 YACHT CLUB, MARINA, OR BOAT LAUNCH**

- A. In general, all new marina projects or expansion of existing marinas shall, as appropriate, include sufficient on-site parking, park-like surroundings, toilet facilities and marine pump-out facilities.

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- B. Site location and suitability. Before approving a marina, the Planning Board shall determine that the site is suitable for the intended use based on consideration of the following factors:
1. Environmental sensitivity of the shoreline and adjacent areas.
    - a. The terrain conditions shall be such that the proposed use can be developed without extensive earthmoving or filling.
    - b. The aquatic conditions shall be such that the proposed use can be developed without extensive disruption of aquatic habitats.
    - c. Compliance with natural resources protection regulations, section 7.16.
  2. Compatibility with adjacent uses. The location of the proposed use and structures and the general character of the development proposed shall be compatible with their surroundings and such other requirements of this chapter as may apply.
  3. Access conditions.
    - a. Street access to the site shall be adequate for the intended level of use and shall not involve traffic of a type or intensity that would cause a detrimental effect on the character of the area.
    - b. Water access to the site shall provide convenient passage for small boats.
- C. No amplified music or PA system shall be permitted.
- D. New marina projects must incorporate best management practices in their design, in order to minimize stormwater runoff and to prevent polluted waters from reaching adjacent waters and wetlands. Low impact development practices, identified in the NYS DEC Stormwater Management Design Manual, are acceptable methods for controlling pollution, erosion, and stormwater and may include the following:
1. Maximize permeable land surface and vegetative cover. Direct runoff away from adjacent waters and wetlands to the extent feasible by site grading or other methods.
  2. Capture and treat runoff from parking lots, maintenance, fueling, wash-down areas, and other impervious surfaces that may contain potential pollutants. Accepted treatment methods include oil and grease filtering catch basins, retention areas and exfiltration systems.
- E. The underwater portions of piers and docks, including piles, shall not be constructed using creosote-treated lumber.
- F. Outdoor lighting shall not project light onto nor shall light sources be visible from neighboring land properties. No marina light sources shall be more than ten (10) feet above the ground or dock level underneath it. These provisions shall not exclude appropriate navigational aides deemed necessary by the town. Lights shall be shielded so as light does not project into the lake more than is required for safe access and use of docks.
- G. Fuel storage facilities shall be adequately containerized so as to prevent spillage, leakage or damage from storms and shall be set back no less than 50 feet from the mean high-water line; except that gasoline pumps may be located conveniently to service boats, provided that precautions are taken to prevent spillage in the waters of the town. In no case shall fuel storage or service pumps be located less than 100 feet from adjacent lot lines, and the recommendations of the Fire Marshal serving the Town shall be considered.
- H. Accessory use may include the provision of fuel and supplies, minor and emergency repairs for recreational boats, boat rental, boat storage and sale and restaurant and related retail sales. In the

case of any retail sales component, such accessory use shall comprise no more than thirty (30) percent of the total floor area of the yacht club, marina, or boat launch.

- I. Site plan. The site plan for a marina shall be prepared in accordance with this chapter and shall provide special consideration for the waterfront location, including:
  1. Appropriate plantings and screening of parking and storage yards.
  2. Architectural treatment of all structures and visible site improvements.
  3. Facilities for the handling, holding and transportation of wastewater from recreational boats. Such facilities shall be approved by all appropriate agencies having jurisdiction.
  4. Protection of the shoreline and docked boats from erosion by wind or wave action.
  5. Detailed design of any shoreline structures, such as bulkheads, piers or launching ramps.
- J. The Planning Board shall require sufficient off-street parking spaces, under the ownership or control of the operator, to meet the expected need. A minimum of 1/2 space per boat slip shall be required, plus one (1) space for each employee and additional spaces as required for boat launches and other accessory uses.
- K. The number of boat slips and moorings shall be governed by the Canandaigua Lake Uniform Docking and Mooring Law of the Town of Gorham.

#### **31.9.14 OUTDOOR RECREATION FACILITIES, INCLUDING GOLF COURSES, RIDING ACADEMIES, HUNTING AND FISHING CLUBS, AND OPEN AIR THEATERS**

The Planning Board may approve a permit for an outdoor recreation facility within the FP-Farmland Priority, GB-General Business, or I-Industrial District, provided that the following standards and conditions are maintained.

- A. Conditions for all facilities
  1. No building, structure, parking lot or unenclosed recreational facility shall be located within 50 feet of any side or rear property line, unless the Planning Board determines that a smaller buffer is acceptable.
  2. Unenclosed facilities shall be effectively screened from public streets and neighboring residential uses.
  3. No public address system is permitted, except where such system will not be audible at any property line.
  4. Outdoor lighting shall not project light onto, nor shall light sources be visible from, neighboring properties or public or private roads, streets, or vehicular right-of-ways.
  5. Access to the facility shall be from a state or county highway or a through town roadway other than a residential subdivision street. Location and design of entrance drives shall be such as to minimize traffic hazard and nuisance factors.
  6. All required parking spaces shall be provided on the site in appropriate areas sufficient in size to meet demand during special events and other peak loading periods.
  7. In any district where permitted, retail sales that are clearly secondary to the principal use are permissible.
  8. The facility shall be designed and intended for use by less than 500 persons at any given time.
  9. Access drives shall be adequate to accommodate vehicles queued for admission without traffic backup into the road right-of-way.

10. Sanitary facilities, sewage disposal and water supply shall be adequate and in compliance with applicable state and local regulations.
11. The hours of operation for such outdoor recreation facilities shall be subject to review and approval of the Planning Board during site plan review. In determining the permitted hours of operation, the Planning Board shall consider protection of the character of the existing neighborhood, the proximity of adjacent residences, and impact on adjacent property values.
12. Specific types of activities, capacity for participants and spectators and hours of operation shall be considered in determining the compatibility of the facility with the surrounding neighborhood.

B. Additional requirements for golf courses

1. A golf course shall have at least 9 holes conforming to the standards of the United States Golf Association and shall not be constructed on a site having less than 50 acres, with another 50 acres for each additional 9 holes or fraction thereof.
2. A practice driving range shall be permitted as an accessory use to a golf course, provided that there shall be no more than one (1) driving tee for each acre in the total tract and no artificial lighting shall be allowed. Driving ranges shall also constitute a principal and be subject to special use permit approval as a golf course provided that there shall be no more than one (1) driving tee for each acre in the total tract, and shall not be subject to the requirements of paragraph 1 above.
3. There shall be no more than one (1) accessory clubhouse or other building designed to provide for lockers, enclosed eating facilities without takeout privileges and shop for the sale of golf equipment.
4. Additional accessory buildings may be permitted, including buildings for the storage and maintenance of equipment and machinery used in connection with a golf course.
5. Drought-tolerant grasses shall be required on all golf courses in order to minimize irrigation and fertilizer needs.
6. All buildings, parking areas, greens, tees, swimming pools and similar sources of noise shall be designed to assure the quiet enjoyment of adjacent properties and shall be set back not less than 100 feet from an adjacent property line.
7. Not more than five percent (5%) of the site shall be covered by buildings.
8. The golf course and any accessory driving range shall be designed to minimize stray golf shots from crossing onto private properties or public rights-of-way. A vegetated buffer area of not less than 20 feet in depth shall be provided along the boundaries of the golf course property.
9. Any seasonal use of the golf course for such activities as cross-country skiing or snow mobile trails shall be subject to Planning Board approval. The operator shall submit a proposed site plan to the Planning Board delineating the locations proposed for such activities.
10. Fertilizers and chemicals shall be applied in such a manner that they would not affect the quality of groundwater or streams

C. Additional requirements for riding academies

1. The minimum area required for the commercial stabling of horses on any lot shall be ten (10) acres. There shall be no storage or use of manure or other dust-producing substances within a distance of 100 feet from any lot line. Riding trails may be no closer than 50 feet to any lot line, nor shall any riding trail cross a public way, road, street or highway unless by prior approval of the Planning Board. If outdoor lighting is provided for riding areas, the applicable setbacks shall be doubled. All lighting shall be so located as not to be visible at the source

- from any adjoining property. The use of existing barns and structures is to be encouraged, and such existing buildings will be exempt from applicable setback requirements.
2. Manure disposal facilities and all other removal or handling of manure shall be designed in such a manner that there is no ground- or surface water pollution, nor or any public nuisance created due to odors or visual aesthetics. Such facilities shall be located a minimum of 500 ft from any residential building on adjacent property.
  3. Public events, demonstrations, horse shows, rodeos or competitive events held in connection with riding academies or stables shall be permitted, provided that adequate sanitation facilities, sufficient parking and crowd control measures are provided as determined by the Planning Board.
  4. The applicant shall be permitted to regularly maintain no more than ten (10) horses over six (6) months old on the premises for the first ten (10) acres of contiguous property owned by the applicant. The keeping of an additional one (1) horse over six (6) months old shall be permitted for each additional one-half (1/2) acre of contiguous property in excess of ten (10) acres owned by the applicant.
  5. Proper fencing, as determined in the discretion of the Planning Board, shall be required to be located between riding academies, boarding stables and all other adjacent properties designed to prevent horses from straying onto adjacent properties.
  6. In reviewing any application for a stable or riding academy, the Planning Board shall consider the drainage, percolation and topography of the proposed site and its proximity to public or private water supplies.
  7. In granting any special use permit pursuant to this section, the Planning Board shall consider the frequency of events, hours during which events may be permitted, the maximum number of people that may be expected to attend such events, provisions for crowd and traffic control and intrusiveness of noise upon neighboring residences, including the nature of and decibel level of sound amplification systems.
- D. Additional requirements for hunting and/or fishing clubs
1. The minimum lot area shall be ten (10) acres.
  2. No building or parking area shall be located closer than 100 feet to any property line, nor within 250 feet of any existing neighboring residence.
  3. Specific plans for public address systems and/or lighting for outdoor recreational facilities shall be submitted to and approved by the Planning Board, including the specific proposed hours of operation for such facilities.
  4. No outdoor target range or similar facility for the discharge of firearms shall be located on a club site of less than 50 acres or closer than 500 feet from any property boundary or such greater distance as may be specified by the New York State Environmental Conservation Law or other applicable laws, rules or regulations.
  5. The activities associated with any active outdoor recreation facilities, including a target range, shall be suitably screened from neighboring residential properties so as to create a visual and noise-detering buffer.
- E. Additional requirements for outdoor drive-in or open-air theaters.
- The screen, stage or other area for actors or players shall be located at least 150 feet from any road right-of-way and oriented such to prevent motorist views of movies or performances.

### **31.9.15 PUBLIC AND SEMI-PUBLIC BUILDINGS USES**

The Planning Board may approve a special use permit for public and semi-public uses of an institutional, health, educational, recreational, religious or cultural nature in any zoning district provided that the following standards and provisions are maintained:

#### **A. Requirements for All Public & Semi-Public Uses**

1. The application shall include a statement setting forth the details of the operation of the use. All activities that may be included as part of the special permit use shall be identified and shall require specific approval by the Planning Board.
2. The Planning Board may establish the hours of operation for such special permitted use as part of the approval of the request.
3. The applicant shall provide evidence of approval, certificate of need, license or other similar document required to initiate or expand such a use from any and all appropriate regulating agencies.
4. Each special use shall have only a single point of access to each public street on which the use may have frontage. All off-street parking shall be designed to complement the internal circulation pattern and the point, or points, of access to the property.
5. If a bus is to be used as part of the operation of the special use, a designated parking area shall be provided for the storage of said vehicle. Such parking area shall be located behind the principal building and landscaped and buffered from any adjacent residential site. No unregistered vehicles shall be permitted to be stored on any property for which a special use permit has been approved. Should any special permitted use require more than one (1) bus to be used as part of the operations, the operator shall provide a separate designated parking area for each vehicle.
6. If the applicant proposes outdoor use of the property, the site plan should identify that portion of the site where such activities are to occur. Prior to the approval of any outdoor use of the property, the Planning Board shall consider how such outdoor use will impact on neighboring areas. The Planning Board shall evaluate such concerns as noise, traffic congestion, traffic safety, off-street parking and neighborhood security as part of its process of deliberation.
7. Site lighting shall be provided as part of any special permitted use. Such lighting shall not illuminate adjacent residential sites. Site lighting shall be restricted to providing adequate security lighting for the property after the public use of the property has been concluded.
8. All public and semi-public uses shall maintain a landscaped buffer area of not less than 20 feet in depth around the perimeter of the property.
9. Water supply and sewage disposal plans shall be approved by the New York State Department of Health.
10. All such special uses shall be handicapped accessible and designed to meet the requirements of the Americans with Disabilities Act.
11. Minimum lot sizes shall be determined by the zoning district in which the proposed use is located, and shall be sufficient to meet all required setbacks:
12. All uses shall provide for adequate water supply and sewage disposal.

#### **B. Additional Requirements for Day Care Centers**

On-site recreational facilities shall be provided and maintained for the exclusive use of clients. Recreational areas shall be physically separate from on-site parking areas or driveways and screened from adjacent properties.

#### **C. Additional Requirements for Public or Private Schools**

All outdoor recreation areas shall be maintained in the rear and/or side yard areas. Where such facilities are to be located adjacent to a residential site, berms with landscaped plantings shall be installed along the borders to mitigate the effects of noise on the adjacent residential sites.

D. Additional requirements for Membership/Social Clubs, Lodges Or Social Centers

1. This special permitted use shall only serve or accommodate members and their guests.
2. Any retail sales of goods or the personal services provided in conjunction with this use shall only be for the benefit of members and their guests, or in conjunction with occasional fundraising activities and such use shall be incidental to the primary use or function of the facility.

**31.9.16 RETREAT/CONFERENCE CENTER**

The Planning Board may grant a special use permit for a retreat or conference center in the FP, RR, or R-1 District, provided that the following conditions and standards are maintained.

- A. All applicable health and safety codes, including provisions of the NYS Fire Prevention and Building Code, are met.
- B. The maximum amount of coverage of buildings and paved areas on the lot shall not exceed 15% of the lot area.
- C. Landscaped buffers shall be provided, which are sufficient to screen views of the facility from neighboring property and to minimize the impacts of noise, traffic and other operations of the facility on neighboring property, roads and other public facilities.
- D. Lighting shall be shielded so that no lighting is visible from neighboring property. A lighting plan shall be submitted with all special use permits to establish or expand an existing Retreat/ Conference Center.
- E. The facilities and services provided by the Retreat/ Conference Center shall be open to invited guests, businesses and organizations by reservation on a fee basis for the purpose of providing facilities and lodging for: business meetings; conferences and/or training sessions; and, health related fitness/wellness services for guests. In no event shall a guest, business or organization attending a Retreat/ Conference Center be allowed to operate, advertise or conduct business with the general public from any portion of the premises that comprise the Retreat/ Conference Center.
- F. Except for lodging accommodations for Center guests, the only dwelling unit(s) permitted on the Retreat/ Conference Center site shall be for the owner's residence, a caretaker's dwelling and dwelling units for on-site staff members. No other dwelling units of any type shall be permitted.
- G. No more than three (3) lodging units shall be permitted per acre of gross site area.
- H. On-site streets and driveways shall be privately owned and operated. Streets and driveways shall be constructed with a stabilized road base and adequately signed. Plans and specifications for streets and driveways shall be reviewed and approved by the Town Engineer. All roadways and public parking areas shall either be paved or dust treated.

- I. Access to the facility shall be from a state or county highway or a through town roadway other than a residential subdivision street.
- J. No building or parking area associated with the conference center shall be located closer than 150 feet to any property line, nor within 250 feet of any neighboring residence.
- K. Adequate water supply and sewage disposal facilities shall be provided in accordance with the requirements of the Town of Gorham and the New York State Departments of Health and Environmental Conservation.

### **31.9.17 TELECOMMUNICATIONS FACILITIES IN THE FP DISTRICT**

#### **A. Applicability**

- 1. Special Use Permits shall not be required for the following uses:
  - a. new uses which are accessory to residential uses such as satellite dishes, and television antenna(e).
  - b. amateur radio operators as licensed by the Federal Communications Commission (FCC).
  - c. lawful or approved uses existing prior to the effective date of these regulations, and;
- 2. Where these regulations conflict with other laws and regulations of the Town of Gorham, the more restrictive shall apply, except for tower height restrictions which are governed by these special use permit standards.

#### **B. General Requirements**

No special use permit or renewal thereof or modification of a current special use permit relating to a telecommunications facility shall be authorized by the Planning Board unless the Planning Board finds that such telecommunications facility:

- 1. is necessary to meet the current or expected demand for service.
- 2. conforms with all applicable regulations promulgated by the Federal Communications Commission (FCC), Federal Aviation Administration (FAA), and other federal agencies.
- 3. is considered a public utility and/or has been issued a certificate of public need in the State of New York.
- 4. is designed and constructed in a manner that minimizes visual impact to the extent practical.
- 5. is the most appropriate site among those available within the technically feasible area for the location of a telecommunications facility.
- 6. when including the construction of a tower, such tower is designed to accommodate future shared use by at least three (3) other telecommunication service provider. Any subsequent location of telecommunications equipment by the original or other service providers on existing towers specifically designed for shared use shall not require a new or modified special use permit if there would be no increase in the height of the tower, and if the additions to the tower are limited antennas and antenna cabling and do not include parabolic dish antennas of more than three (3) feet in diameter, and if no other site modifications are necessary other than the addition of communications equipment within existing site buildings. However, any changes in fencing, road location, access, buildings, or other site improvements shown on the site plan approved by the Planning Board shall require site plan approval.

#### **C. Special Use Permit Application Requirements**

- 1. A site plan, in conformance with Article 10 herein shall be required. Said site plan shall be subject to review and approval by the Planning Board in accordance with the Article herein. The site plan shall show elevation, height, width, depth, types of materials, color schemes, and

- other relevant information for all existing and proposed structures, equipment, parking and other improvements. The site plan shall also include a description of the proposed telecommunications facility, and such other information that the Planning Board requires.
2. All applications for a special use permit shall be accompanied by a report containing the information hereinafter set forth and sealed by a professional engineer duly licensed by the State of New York.
    - a. Name(s) and address(es) of person(s) preparing the report.
    - b. Name(s) and address(es) of the property owner, operator, and applicant.
    - c. Postal address and block and lot or parcel number of the property.
    - d. Zoning District in which the property is located.
    - e. A description of the proposed tower and antenna(e) and all related fixtures, structures, appurtenances and apparatus, including height above grade, materials, color and lighting.
    - f. The frequency, modulation and class of service of radio equipment.
    - g. Transmission and maximum effective radiated power of the antenna(e).
    - h. Direction of maximum lobes and associated radiation of the antenna(e).
    - i. Applicant's proposed tower maintenance and inspection procedures and records system.
    - j. Certification that Non Ionizing Electromagnetic Radiation levels at the proposed site are within threshold levels adopted by the FCC.
    - k. Certification that the proposed antenna(e) will not cause interference with existing communication devices.
    - l. Certification that the tower and attachments meet all State and Federal structural requirements for loads, wind, ice fall zone specifications, etc..
    - m. A written statement wherein the applicant agrees to defend and indemnify the Town of Gorham and any of its servants, agents or employees from any and all claims made in connection with the installation, construction, use or operation of the telecommunications facility.
    - n. A copy of the FCC license.
    - o. Certification that the applicant has utility status from New York State and the Public Service Commission.
  3. A map depicting coverage areas of existing and planned adjacent facilities of the telecommunications service provider or applicant.
  4. A map depicting coverage areas for the planned facility at:
    - a. Its current proposed height.
    - b. A height 50 feet less than proposed.
    - c. Any other height as the Planning Board may reasonably wish to have evaluated to balance the applicant's need for coverage with the availability of other complimenting sites.
  5. The Planning Board may additionally require analysis of additional sites or facilities which are to be mounted on other existing high structures to determine if the combination of the proposed site with other existing sites provides coverage adequate to the applicant's needs and the purpose for which status as a public utility and a certificate of public need were issued the applicant.
  6. A completed Environmental Assessment Form (EAF) including a Visual EAF Addendum, pursuant to State Environmental Quality Review Act (SEQR). Particular attention shall be given to the visibility of the facility from key viewpoints identified in the Visual EAF Addendum, existing tree lines and proposed elevations.
  7. A landscape plan delineating the existing trees or areas of existing trees to be preserved, the location and dimensions of proposed planting areas, including the size, type and number of trees and shrubs to be planted, curbs, fences, screening elevations of fences and material used.

8. A safety analysis of the electromagnetic environment surrounding the proposed telecommunications facility must accompany any special use permit or site plan application, modification, or renewal thereof. The safety analysis shall be prepared by a qualified electromagnetic engineer. The safety analysis must demonstrate that the general public electromagnetic radiation exposure does not exceed any standards set in any applicable Federal Regulations.
9. The Planning Board may, at the expense of the applicant, employ its own consulting assistance to review the findings and conclusions of the safety analysis, visual analysis, or structural inspection provided by the applicant.
10. The applicant shall, in writing, identify and disclose the number and locations of any additional sites that the applicant is or will be considering, reviewing, or planning for telecommunications facilities in the Town of Gorham and all towns adjacent to Gorham for a two (2) year period from the date of the application.
11. Lot size: Lots used for telecommunications facilities shall conform to the requirements of the FP district or the requirements of Section 4.12 herein, whichever is greater.

#### D. Co-Location

1. At all times, shared use of existing towers shall be required. Additionally, where such shared use is unavailable, location of antenna(e) on pre-existing structures shall be considered. An applicant shall be required to submit a detailed report inventorying existing towers within reasonable distance (2-4 miles) of the proposed site and outlining opportunities for shared use of existing facilities and use of other pre-existing structures as an alternative to new construction.
2. The applicant must demonstrate that the proposed telecommunications facility cannot be accommodated on existing telecommunications facility sites in the inventory due to one of the following reasons:
  - a. The planned structure would exceed the structural capacity of existing and approved telecommunications facilities, or other structures, considering existing and planned uses for those facilities.
  - b. The planned equipment would cause radio frequency interference with existing or planned equipment, which cannot be reasonably prevented.
  - c. Existing or approved telecommunications facilities or structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably.
  - d. Other technical reasons make it impractical to place the equipment proposed by the applicant on existing facilities or structures.
  - e. The property owner or owner of the existing telecommunications facility or other structure refuses to allow such co-location.
3. An applicant intending to share use of an existing tower shall be required to document intent from an existing tower owner to share use. The applicant shall pay all reasonable fees and costs of adapting an existing tower or structure to a new shared use. Those costs include but are not limited to structural reinforcement, preventing transmission or receiver interference, additional site screening and other changes including real property acquisition or lease required to accommodate shared use.
4. In the case of new towers, the applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from existing towers. Written requests and responses for shared use shall be provided.
5. The applicant shall agree to design, build or modify the tower to accommodate up to three (3) additional telecommunications service providers should there be a need or future need for such

services. The scope of this analysis shall be determined by the Planning Board. This requirement may be waived, provided that the applicant demonstrates that the provisions of future shared usage of the facility is not feasible and an unnecessary burden, based upon:

- a. The number of FCC licenses presently available and in the foreseeable future within the proposed service area.
- b. The kind of tower site and structure proposed.
- c. The number of existing and potential licenses without tower spaces/sites.
- d. Available spaces on existing and approved towers.
- e. Potential significant adverse visual impact by a tower designated for shared use.

E. Height, Maximum

1. No telecommunications tower, including antenna(e) thereon, shall exceed 199 feet in height above finished grade elevation. The applicant shall submit documentation justifying the height of any telecommunication tower and/or antenna.
2. The Planning Board may waive the maximum height restriction in the event the applicant submits documentation demonstrating an engineering necessity in order to obtain adequate service area coverage.

### **31.9.18 TEMPORARY HOUSING TO SUPPORT AGRICULTURAL OPERATIONS**

The Planning Board may approve the construction and maintenance of temporary housing to support an individual agricultural operation within the FP Farmland Priority and the RR Rural Residential Districts provided that the following standards and conditions are maintained:

- A. The maximum number of temporary housing units allowed for an individual agricultural operation shall be based on justification of need for the number of dwelling units requested. This justification is to be based on, among other items, full time employment by one or more persons living as a family in the temporary dwelling unit and deriving their principal income from the individual agricultural operation for which this special use permit is requested.
- B. A temporary housing unit shall only be occupied during the planting, growing and harvesting season for the agricultural operation. At all other times the temporary housing unit shall be secured and maintained in a state of good repair.
- C. No temporary housing unit shall be used, leased or rented to another person if that person does not have a legal interest established with the individual agricultural operation. The landowner shall certify, on an annual basis, that the temporary farm housing is used for farm labor. All temporary housing units shall be located on a parcel that is under the same ownership as the individual agricultural operation.
- D. All temporary housing units shall comply with the Standards of the State Uniform Fire Prevention and Building Code.
- E. All temporary housing units shall have a septic system approved by the New York State Department of Health, or an approved connection to a public sewer system.
- F. All temporary housing units shall have an adequate access to a public highway. To the extent possible, this access shall be combined with the driveway for the owner of the individual agricultural

operation and any other driveways for all other temporary housing units associated with said individual agricultural operation.

- G. All temporary housing units shall have a designated area for parking of at least one (1) vehicle per housing unit. This parking area shall be located adjacent to, or within 100 feet from, the main entrance to each temporary housing unit. All such parking area(s) shall be adequately screened or buffered from existing dwelling units or adjacent residential zoned land.
- H. All temporary housing units shall be anchored to a concrete pad or attached to a building foundation.
- I. All temporary housing units shall be located on that portion of an actively farmed site which the Planning Board determines would cause the least disruption to continued farming operations. The basis for this determination will include an overall site plan identifying the land needed for production and the land needed in support of said production.
- J. The maximum land area to be used for temporary housing units shall not exceed five (5) percent of the total area of the parcel.
- K. All temporary housing units, regardless of the zoning district, shall be subject to the front, side and rear setback standards specified for principal buildings in the FP District.

#### **31.9.19 SEASONAL DWELLINGS**

- A. Seasonal dwellings shall be subject to site plan review by the Planning Board.
- B. Such dwelling may be less than 950 square feet, but shall be no smaller than 400 square feet.
- C. Any such dwelling that contains less than 950 square feet and/or does not meet the Uniform Code requirements for a year-round single family dwelling shall require a minimum lot size of ten (10) acres and a minimum setback of 200 feet from all property lines.

#### **31.9.20 SOLAR FARMS**

The Planning Board may grant a special use permit for a solar farm in the FP or I District, provided that the following conditions and standards are maintained:

- A. All applicable health and safety codes, including provisions of the NYS Fire Prevention and Building Code, are met.
- B. Certification is presented from New York State Electric and Gas or the current public utility providing electric service to the site that capacity exists in the utility grid or will be installed sufficient to handle the electric generated from the proposed solar farm.
- C. Landscaped buffers shall be provided that are sufficient to screen views of the solar farm from neighboring property and eliminate glare onto adjacent property, roads and other public facilities.
- D. In the FP District, the solar farm shall be either located off of valuable agricultural soils or designed in such a way as to allow agricultural use of the soil after construction of the solar farm, or both.

- E. The solar farm shall be set back a minimum of 30 feet from all lot lines.
- F. An erosion control and stormwater management plan shall be submitted and found acceptable by the town for both the construction and the operation of the solar farm.
- G. Solar collectors may be mounted on the roofs of existing buildings as part of the design of a solar farm. Within the I district, such collectors located on buildings with flat roofs shall be shielded from ground level view from adjacent properties by parapet walls.

### **31.9.21 GROUND FLOOR DWELLING UNIT IN THE HAMLET COMMERCIAL DISTRICT**

The Planning Board may approve a special permit for a single ground floor dwelling unit in an existing building in the Hamlet Commercial (HC) District providing the following conditions and requirements are maintained:

- A. The dwelling unit is located on the ground floor of an existing building. In no case shall a new building be constructed after the effective date of this local law that has a dwelling unit on the first floor. In the case of a building constructed after the effective date of this local law, the owner thereof must show proof that the space located on the ground floor was made available through a commercial leasing or real estate agent or through such other means as may be acceptable to the Planning Board indicating a bona-fide effort to lease the space, at a competitive market rate for a minimum of 12 consecutive months prior to the application for a special use permit, and that no bona fide offers to lease said space for a commercial use allowed in the HC District have been received.
- B. The ground floor dwelling unit contains at least 300 sq. ft. of habitable space.
- C. The ground floor dwelling unit shall be located to the rear of the building and no portion of the ground floor dwelling unit shall be located on the street side of the building.
- D. The area of the building not occupied by the ground floor dwelling unit shall be located on the street side of the building and be of sufficient size, design, and layout as to accommodate a commercial use allowed in the Hamlet Commercial (HC) District. The Planning Board shall be the sole judge as to the adequacy of size and layout of the commercial space to ensure its viability for commercial use.
- E. The ground floor dwelling unit shall be designed so as to be eliminated and the space thereof added to the adjacent commercial space in the event that the commercial business located therein grows to the extent that it requires additional space. In other words, it is the intent of this zoning local law that commercial uses on the ground floor of buildings in the HC District are preferred over dwelling units on the ground floor. Residential leases for all ground floor dwelling units shall contain provisions for non-renewal in the event that the space is needed for the commercial use, as such provision may be permitted by law and subject to a notice of at least 6 months or longer period as may be required by law.
- F. A minimum of 1.5 off-street parking spaces are reserved for the use of the dwelling unit.

## **ARTICLE 10 – SITE PLAN REVIEW**

### **31.10.1 INTENT**

The intent of this section is to promote the health, safety, and welfare of the Town of Gorham through appropriate site plan review for development proposals to ensure that they are in compliance with the zoning code and consistent with the goals of the Comprehensive Plan. It is further the intent of site plan review to minimize or significantly reduce any conflicts or impacts between the proposed development and adjacent uses or districts, conserve natural resources and sensitive environmental features, and achieve an acceptable level of compatibility with adjacent development or existing uses.

### **31.10.2 APPLICABILITY**

Site plans shall be required for all applications where a building and/or zoning permit, special use permit or variance is required. The applicant shall submit the site plan to the Zoning Officer in accordance with the regulations set forth in this section along with any other required documentation. The Zoning Officer shall refer the site plan to the Planning Board for Site Plan Review pursuant to the requirements of this section, with the exception of those uses requiring Administrative Review by the Zoning Officer in subsection C. Unless specified elsewhere in these regulations, a site plan shall not be required for:

- A. Change in ownership of existing uses.
- B. Any change in use from one permitted use to another where no exterior change to a building or a site is involved.
- C. Exterior additions or enlargements to existing structures less than 144 square feet. This exemption does not pertain to additions or enlargements to commercial or industrial uses that include display areas or storage tanks.
- D. Barns or accessory buildings, and additions thereto, in the FP and RR districts used in association with agricultural operations on the property, provided the proposed structure is not used for the housing of livestock and not more than 5,000 square feet in floor area. Such exemption shall be granted only when the applicant provides a sketch plan to the Zoning Officer showing that minimum turning and access distances are provided for truck and tractor trailer egress off of the public right-of-way, or the owner signs a letter indicating that truck or tractor trailer access from the public right-of-way is not required for said agricultural accessory building or barn.

### **31.10.3 APPLICATION FOR SITE PLAN APPROVAL**

Applications for site plan review and approval, with or without a sketch plan conference, shall be submitted to the Zoning Officer in writing, in a form acceptable to the Planning Board. If the Zoning Officer determines the application to be complete, the application shall be referred to the Planning Board at the next duly called meeting. If the Zoning Officer determines the application to be incomplete, the application shall be returned to the applicant and the Zoning Officer shall inform the applicant of the deficiencies of the application. A sketch plan conference may be held between the Planning Board, Zoning Officer, and the applicant to review the general site design concept and determine the information to be included on the final site plan. The sketch plan and/or site plan shall include information drawn from the requirements in this section.

**31.10.4 ADMINISTRATIVE REVIEW AND APPROVAL BY ZONING OFFICER**

- A. A site plan will not require Planning Board review and can be reviewed and approved by the Zoning Officer for permitted principal and accessory uses in the Agricultural (FP) and Rural Residential (RR) districts if the criteria below are met. All site plans shall be prepared in accordance with the standards set forth in these regulations. Manure storage facilities or agricultural buildings proposed for animal husbandry use shall be referred to the Planning Board.
1. The access drive curb-cut location on a public road has been certified by either the Town Highway Superintendent, Town Engineer, a Professional Engineer, the County Superintendent of Public Works, or New York State Department of Transportation having sufficient site distance along the public highway in both directions as specified in generally accepted engineering standards in use at the time of approval for the maximum posted road speed for the public road.
  2. The method of sewage disposal has been approved by the County Commissioner of Public Works (Canandaigua Lake County Sewer District) or the Town Sewer District Superintendent (Town Sewer District) for properties within a municipal sewer district. For properties requiring on-site sewage disposal systems within the Canandaigua Lake Watershed, approval and/or compliance is required from the Watershed Inspector or the New York State Department of Health.
  3. The method of potable water supply to be provided is specified as follows:
    - a. Within the limits of a Town Water District, the Town Water District Superintendent has approved the design and location of lateral connection; or
    - b. Outside the limits of a Town Water District, the source of potable water for a proposed new residence is either a well or spring located on the site plan and the applicant has submitted a water test from a certified New York State laboratory certifying the water as safe for human consumption.
  4. The plan is stamped by a New York State licensed professional architect, engineer, or landscape architect.
  5. Adequate drainage is provided around all building foundations so that the finished grade around every foundation is a minimum slope of two percent (2%) away from the foundation for a minimum of five (5) feet.
  6. All applicable zoning dimensional requirements are met, including but not limited to lot size, setbacks, building heights and lot coverage.

**31.10.5 SKETCH PLAN**

- A. A sketch plan conference may be held between the Planning Board and applicant to review the basic site design concept and generally determine the information to be required on the site plan; applicants are strongly encouraged to pursue this option. The Planning Board may, at this stage, suggest changes in the sketch plan involving the street layout, traffic patterns, lot size or shape, preservation of natural features or other matters which, in its opinion, will improve the layout in keeping with the best interests of the Town. The Planning Board shall be permitted a reasonable time to review the sketch plan, but in no instance longer than 45 days.
- B. The following items are recommended to be shown on the sketch plan:
1. Title of Map
  2. An approved area map (tape or instrument at the option of the board) showing the parcel under consideration for site plan review, and all properties, subdivisions, streets, and easements within 500 feet of the boundaries thereof, internal street pattern, if any, of the proposed

development, and the location of all existing structures on the site and the future use of the same.

3. Existing natural features on the site and future use of the same.
4. Contour intervals at ten feet (10'), including 200 feet of adjacent property.
5. The Sketch Plan shall show all proposed buildings, entry drive locations, utility hookups, septic system location or sewer lateral location for properties served by municipal sewer, location of well or water lateral for properties served by municipal water.

### **31.10.6 PRELIMINARY AND FINAL SITE PLANS**

All preliminary and final site plan reviews shall include the following information as necessary or applicable. Final site plans shall include any changes recommended or required by the Planning Board or any other pertinent agencies.

- A. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing, including professional stamp.
- B. North arrow, graphic scale, and date.
- C. Boundaries of the property, plotted to scale.
- D. The location of existing property lines, easements, structures, streets, driveways and natural features within 200 feet of the proposed site or at the discretion of the Planning Board. Natural features subject to other local, state, or federal regulations which may restrict development should also be included (e.g. FEMA floodplains, NYS DEC/Federal wetlands, local resources identified in any Town-adopted plans).
- E. Zoning, land use, and ownership of the current property and adjacent properties.
- F. Grading and drainage plan, showing existing and proposed contours. The drainage plan shall also clearly explain the methodology used to project stormwater quantities and the resultant peak flow conditions. The area and limit of disturbance as well as the extent and method of erosion control shall be clearly indicated on the plan and may be shown on the grading and drainage plan.
- G. Location, proposed use, hours of operation and height of all buildings. Summary of the amount of square footage devoted to each use requiring off-street parking or loading.
- H. The number, location, and dimensions of all parking and loading areas, access points (ingress/egress), curb cuts, pedestrian paths, streets/driveways, within and immediately adjacent to the site. Type of construction material and any construction details shall also be shown.
- I. Location, dimensions and vehicle capacity of drive-in facilities and related queuing lanes.
- J. Size, type, location and screening of all facilities used for recycling and disposal of solid waste.
- K. Building elevation(s) showing building massing, window and door spacing and treatments and other architectural features; and indication of building materials suitable to evaluate architectural compatibility.

- L. Location, purpose and holder of all proposed easements or dedications for utilities, recreation, conservation or other purpose.
- M. Location, size, screening and type of material for any proposed outdoor storage.
- N. Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
- O. Description of the type and quantity of sewage expected, the method of sewage disposal, and the location, design and construction materials of such facilities.
- P. Description of the type and quantity of water supply needed, the method of securing water supply, and the location, design and construction materials of such facilities.
- Q. Location of fire and other emergency zones, including the location of fire hydrants.
- R. Location, design and construction material of all energy-distribution facilities, including electrical, gas and wind power and solar energy and other public utility facilities, such as cable or phone service.
- S. Location, size, design and construction materials of all proposed signs.
- T. A landscaping plan indicating location, type, and size of existing trees and vegetation to be preserved and proposed trees and vegetation, including buffer areas.
- U. Location, type, height, brightness and control of outdoor lighting facilities.
- V. Size, location and use of permanent open space as required in 7.12.
- W. Identification of permanent open space or other amenities provided in conjunction with cluster or incentive zoning provisions.
- X. A table summarizing each building footprint, total size in square feet and number of stories; the number of dwelling units and the amount of square feet devoted to each use type; size, in square feet or acres, of access, parking and circulation areas and the number of loading, queuing and parking spaces; size in square feet of landscaped and natural open space; and size in square feet and text of all signs.
- Y. Other elements integral to the proposed development as considered necessary by the Planning Board, to include showing railroads or any other type of transportation facilities not specified.
- Z. All forms and information pursuant to New York State Environmental Quality Review Act (SEQRA).
- AA. A visual simulation and analysis and/or Visual Environmental Assessment Form for specified uses or when the Planning Board determines a visual analysis is required as part of the site plan review.

- BB. An agricultural data statement if the proposed use is located on or within 500 feet of a farm operation in a county agricultural district.
- CC. For all developments disturbing more than one acre, New York State Department of Environmental Conservation (NYSDEC) requires that Municipalities receive a copy of the Storm Water Pollution Prevention Plan (SWPPP) prior to plan approval. The owner is required to comply with the NYSDEC's "SPDES General Permit for Storm Water Discharge from Construction Activity" Permit # GP-02-01.

### **31.10.7 CRITERIA FOR SITE PLAN REVIEW**

The Planning Board's review of a site plan shall include, as appropriate, but is not limited to, the following:

A. General Considerations:

1. Adequacy and arrangement of vehicular traffic access and circulation, including curb cuts, intersections, road widths, pavement surfaces, dividers, and traffic controls including compliance with the Access Management Local Law of the Town of Gorham.
2. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
3. Location, arrangement, appearance, and sufficiency of off-street parking and loading.
4. Location, arrangement, size, design, and general site compatibility of buildings, lighting, and signs. Signs and lighting devices must be arranged with respect to traffic control devices and residential districts.
5. Adequacy of stormwater and drainage facilities, including ownership maintenance provisions, etc. Design of grades, paving, drainage and treatment of turf to shall be adequate to handle stormwater, prevent erosion and control the formation of dust.
6. Adequacy of water supply, sewage disposal and solid waste disposal facilities.
7. Adequacy, type and arrangement of trees, shrubs, and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation and including provisions for maintenance and ownership of these areas.
8. In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation.
9. Protection of adjacent or neighboring properties against noise, glare, unsightliness, or other objectionable features.
10. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
11. Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding, and/or erosion.
12. Where manure storage facilities are involved, the adequacy of protection of ground water from contamination, and the adequacy of odor control if necessary.
13. Conformance with the Town of Gorham Comprehensive Plan, Design Guidelines, and any other adopted studies or reports.

B. Specific requirements for single and two-family residential site plans

The Planning Board's review of a site plan for a single and two-family residential dwelling shall include, as appropriate, but is not limited to, the following:

1. The architectural style of the residence shall be in harmony with the character of the surrounding residential development or what is permitted for future development by the

- Town's Zoning Local Law and Comprehensive Plan. The Planning Board shall consider such factors as foundation appearance, siding material and appearance, roof pitch, roofing material, and building dimension, scale, and shape. The plan shall conform to the Town of Gorham Design Guidelines to the extent the Planning Board deems practical.
2. All utility hookups shall be of a material and construction technique suitable for permanent attachment.
  3. Dwelling shall be built upon a lot with frontage upon a public street, or private road or driveway improved to meet the standards of the Town of Gorham Design and Construction Standards, in accordance with the requirements of Section 31.7.3 herein.
  4. The location of all curb-cuts shall provide adequate site distance along the public or private right-of-way providing access to the property.
  5. Adequate drainage shall be provided away from all building foundations and that the finished grade around every foundation provide a minimum slope of two percent (2%) away from the foundation for a minimum of five (5) feet.
  6. The site plan shall be stamped by an architect, professional engineer, or landscape architect licensed by the State of New York. The Planning Board shall waive this requirement by majority vote of the board when it finds that site conditions are conducive to adequately protect the health, safety, and general welfare, based upon the following evidence:
    - a. Well drained soils.
    - b. Lack of seasonal flooding or high water tables.
    - c. Existing grading which slopes away from the proposed location of all foundations;
    - d. Adequate site distances along public roads from the location of proposed curb cuts for driveways as certified by the town highway engineer, county director of public works, or the new york state department of transportation.
    - e. Certification of the design of proposed sewage disposal including adequate surface drainage away from any leach field from either the town code enforcement officer, the canandaigua lake watershed inspector or any other watershed or district inspector of competent jurisdiction, the town superintendent of sewer and water, or the director of public works of ontario county.
    - f. The certification of the design of proposed potable water supply by the town superintendent of water, the state department of health, or as evidenced by the results of a sample from said proposed water supply tested by a laboratory certified by the state of new york.
  7. The Planning Board may require changes to ensure the harmonious appearance of the new development in accordance with the neighborhood character.
- C. Site plan applications involving a Manure Storage Facility shall:
1. Be designed in accordance with United States Department of Agriculture, Natural Resources Conservation Service Standards (NRCS). Said plans shall either be accompanied by:
    - a. a notarized letter from the Ontario County Soil and Water Conservation District stating the date of review of said plans and containing said District's recommendations concerning compliance of the plans with said NRCS standards, or
    - b. the seal of a Professional Engineer licensed to practice in New York State.
  2. Include copies of soil boring logs and reports taken in the vicinity of the proposed manure storage facility, as designated appropriate by either the Ontario County Soil and Water Conservation District or a Professional Engineer licensed to practice in New York State.

3. Include the results of a deep hole inspection of soil and groundwater conditions at the site of the proposed manure storage facility conducted by either the Ontario County Soil and Water Conservation District or a Professional Engineer licensed to practice in New York State.
4. Include complete design details of any structures to be built and materials to be used therein.
5. Include a statement as to the type and number of animals expected to contribute waste to the facility, and the maximum number of animals said facility is capable of supporting.
6. Include a statement as to the operation of the manure storage facility, such as the number of times per year residue is to be removed and where to, whether mechanical agitation or aeration is involved.
7. Be designed to prevent animals and people from accidentally falling into and/or becoming trapped in any portion of said manure storage facility. In the case of ground level pits used as manure storage facilities, such facilities shall be surrounded by a minimum four-foot high (4 ft.) fence. Said fence shall be of sufficient design to make the facility secure from small children.

### **31.10.8 WAIVER OF REQUIREMENTS**

The Planning Board may, when reasonable, waive any requirements for the approval, approval with modifications, or disapproval of a proposed site plan. A waiver may be granted when such requirements are not necessary to the public health, safety or general welfare or are inappropriate to a particular site plan.

### **31.10.9 HEARING, REFERRALS, AND CONSULTATIONS**

#### **A. Public Hearing**

1. The Planning Board shall conduct a public hearing on the proposed site plan. Such public hearing, if held, shall be conducted within 62 days of the receipt of the formal application for site plan approval and shall be advertised in the official newspaper of the Town at least five (5) days before the public hearing.
2. If the Planning Board determines that a public hearing shall be conducted, the applicant shall place one (1) sign on the property for which site plan approval is requested. Said sign shall be provided by the Zoning Officer. The sign shall be placed in a location that is easily read from a public street. The sign shall specify the date, time and place of the public hearing and a telephone number to call for more specific information. Such sign shall be placed on the site not less than five (5) days prior to the public hearing and shall be brought to the hearing by the applicant or his designated representative.
3. **County Planning Board Referral**  
The Planning Board shall refer to the County Planning Board when necessary for advisory review and a report in accordance with Section 239-m and Section 239-n of the General Municipal Law.
4. If a public hearing is required, the Planning Board shall mail a notice of such hearing and a full description of the proposed project to the County Planning Board at least 10 days prior to the hearing.
5. If a public hearing is not required, the Planning Board shall complete the required referral prior to taking final action on the proposed site plan.

- B.** In its review, the Planning Board may consult with the Town Engineer, or other officials and agencies, as they deem appropriate.

- C. The Planning Board may require that the exterior design of all structures be made by or under the direction of a registered architect, whose seal shall be affixed to the plans, and to submit landscape plans made by or under the direction of a registered landscape architect, together with an estimate of the cost of installing the same.

### **31.10.10 PLANNING BOARD ACTION ON SITE PLAN**

- A. Within 62 days of receipt of the application for site plan approval, or within 62 days of the public hearing, if such a hearing is held, the Planning Board shall act on the application. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the site plan is approved, disapproved or approved with modifications.
- B. The Planning Board's statement may specify modifications to be incorporated into the site plan, and conformance with said modifications shall be considered a condition of approval.
- C. The Planning Board may impose reasonable conditions in conjunction with site plan approval. Such conditions may include:
1. Obtaining all necessary state, federal and local permits or approvals;
  2. Detailed sizing and final material specifications
  3. Project construction schedule
  4. Any other reasonable conditions or restrictions that are directly related to and incidental to the proposed site plan.
- D. If the site plan is disapproved, the Planning Board's statement will contain the reasons for such findings. A copy of the minutes may suffice for this statement.

### **31.10.11 CONSTRUCTION PRIOR TO SITE PLAN APPROVAL**

No modifications of existing stream channels, filling of lands with a moderate to high susceptibility to flooding, grading, or removal of vegetation in areas with a moderate susceptibility to erosion, or excavation for construction of site improvements shall begin until the developer has received preliminary site plan approval. Failure to comply shall be construed as a violation of this Law, and where necessary, the Zoning Officer may require the modification, restoration, or removal of unapproved site changes.

- A. Expiration of Site Plan Approval  
Such site plan approval will automatically terminate two (2) years after the same is granted unless all work necessary to complete the site plan as approved by the Planning Board has been completed on the project. The Planning Board may extend such time limit for a period of one (1) year if the applicant applies for such an extension prior to the expiration of the initial two (2) year period. The Planning Board shall grant such a one (1) year extension only once, and only upon finding that at least 50% of the value of all improvements included in the initial site plan approved by the Planning Board shall have been completed by the applicant at the time of application for the extension. Any modifications to the initial site plan shall require resubmission of the site plan as a new application before the Planning Board. Upon expiration of site plan approval, any applicant may submit a new site plan application complying with the requirements of the zoning local laws currently in force in the Town of Gorham.

**31.10.12 REIMBURSABLE COSTS/CONSULTATION**

The Planning Board may refer a site plan or elements thereof to a designated Town Engineer for review of storm water drainage facilities, site grading, vehicular or pedestrian circulation adequacy, erosion control, municipal sewer or water facility design, on site septic or manure storage facility design, or other similar technical review. The Town may consult with the Ontario County Soil and Water Conservation District to verify the design of proposed manure storage facilities conform to NRCS standards. Costs incurred by the Planning Board for consultation fees or other extraordinary expense in connection with the review of a proposed site plan shall be charged to the applicant, in accordance with the fee schedule then in effect.

**31.10.13 PERFORMANCE GUARANTEE**

No Certificate of Compliance shall be issued until all improvements shown on the site plan are installed in compliance with the site plan approval as made by the Planning Board. The Zoning Officer shall have the authority to issue either a conditional Certificate of Compliance or a Certificate of Compliance without all improvements shown on the site plan being completed upon the issuance of a surety instrument or creation of an escrow account, or other performance guarantee in a form acceptable to the Town, for an amount sufficient to cover the completion of the remaining improvements but in no case no more than \$10,000.00 when, in the judgment of the Zoning Officer, completion of the remaining improvements is impractical because of season.

**31.10.14 INSPECTION OF IMPROVEMENTS**

The Zoning Officer shall be responsible for the overall inspection of site improvements, including coordination with the Town Engineer and other officials and agencies, as appropriate.

**31.10.15 INTEGRATION OF PROCEDURES**

- A. Whenever the particular circumstances of a proposed development require compliance with either the special use procedure in this Law, or the requirements of the town subdivision regulations, the Planning Board shall attempt to integrate the site plan review, as required by this section, with the procedural and submission requirements for such other compliance.
- B. Where a proposed site plan contains one or more features that do not comply with the zoning regulations, an application may be made to the Zoning Board of Appeals for an area variance, without the need for a denial of the Zoning Permit by the Zoning Officer.

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**ARTICLE 11 - ENFORCEMENT AND ADMINISTRATION****31.11.1 ENFORCEMENT**

The Town Board shall provide for the services of a Zoning Officer. The Zoning Officer is hereby given the duty, power, and authority to enforce the provisions of this Local Law. He or she shall examine all applications for permits, issue permits for the construction, alteration, enlargement, and occupancy of all uses which are in accordance with the requirements of this Local Law and all non-conforming uses, record and file all applications for permits with accompanying plans and documents and make reports as may be required.

Zoning permits for a variance from the requirements of this Local Law shall be issued only upon written order of the Zoning Board of Appeals. Zoning permits for such special uses as may be enumerated in the Zoning Schedule Law shall be issued only upon written order of the Planning Board.

**31.11.2 ENFORCING OFFICER**

This Local Law shall be enforced by the Zoning Officer in accordance with the provisions of this Local Law.

**31.11.3 ZONING PERMITS AND/OR REQUESTS FOR ZONING COMPLIANCE**

- A. No building or structure shall be erected, enlarged, structurally altered or moved, no new use shall be established, and no building permit shall be granted pursuant to the NYS Uniform Fire Prevention and Building Code, until a zoning permit therefore has been issued by the Zoning Officer, and no alterations to an existing building shall be made without a zoning permit, unless such alterations are exempt from a building permit pursuant to the NYS Uniform Code. No zoning permit, nor any certificate of occupancy or compliance pursuant to the NYS Uniform Code, shall be issued for any building where said construction, addition, alteration, moving or use thereof would be in violation of any of the provisions of this Zoning law, or where any necessary Town Planning Board Subdivision approval has not been granted.
- B. No zoning permit nor building permit shall be issued, nor any certificate of occupancy nor certificate of compliance issued, for any structure, use, or addition in the Town of Gorham until the applicant has submitted with the zoning or building permit application a sketch plan indicating the location of access to a public highway (which may be provided via a private right-of-way meeting the requirements of this local law), and the zoning officer determines that either an existing curb cut is sufficient to serve the property or that a curb cut permit for a new access drive or road has been issued by the agency of competent jurisdiction, such as the Town Highway Department, Ontario County Public Works, or New York State Department of Transportation.
- C. No zoning permit for a structure in which one (1) or more toilets will be located shall be issued for premises in the Canandaigua Lake Watershed area until a septic system design has been approved by the Watershed Inspector, or an alternative system has been approved by the NYS Department of Health, and the Zoning Officer is so notified in writing. No zoning permit for a structure in which a toilet or toilets will be located shall be issued for premises outside said watershed area until septic system design has been approved by the Zoning Officer. The provisions of this paragraph shall not apply to premises served by a public sewer system.

**31.11.4 PLOT AND CONSTRUCTION PLANS**

There shall be submitted with all applications for zoning permits, a tape location map or surveyor's map showing all property boundaries and existing buildings and setbacks of those buildings.

**31.11.5 CERTIFICATE OF ZONING COMPLIANCE**

- A. No building shall be used or occupied, except to the extent provided in this section, until a certificate of zoning compliance has been issued. No building similarly enlarged, extended, or altered, or upon which work has been performed which required the issuance of a zoning permit, shall be occupied or used for more than 30 days after the completion of the alteration or work unless a certificate of zoning compliance has been issued. No change shall be made in the nature of the occupancy of an existing building unless a certificate of zoning compliance authorizing the change has been issued. The owner or his agent shall make application for a certificate of zoning compliance.
- B. A temporary certificate of zoning compliance may be issued if the building or structure or a designated portion of a building or structure is sufficiently complete that it may be put to the use for which it is intended. A temporary certificate of zoning compliance shall expire six (6) months from the date of issuance, but may be renewed an indefinite number of times.
- C. No certificate of zoning compliance shall be issued except upon an inspection that reveals no uncorrected deficiency or material violation of the zoning local law in the area intended for use and upon payment of the appropriate fee.
- D. RECORD - The Zoning Officer shall keep a record of all certificates of zoning compliance (duplicate copy).
- E. No certificate of occupancy shall be issued pursuant to the NYS Uniform Fire Prevention and Building Code unless a certificate of zoning compliance has been issued.

**31.11.6 COMPLAINTS OF VIOLATIONS**

Whenever a violation of this Local Law occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Zoning Officer, who shall properly record such complaint and immediately investigate the report thereon.

**31.11.7 PENALTIES**

- A. Any person found guilty of violating any provision of the Zoning Local Law of the Town of Gorham shall be punished by a fine not to exceed \$250 or imprisonment for a period not to exceed fifteen (15) days, or both such fine and imprisonment.
- B. Each week's continued violation shall constitute a separate, additional violation.

**31.11.8 FEES**

Each application for a permit provided for in this Local Law shall be accompanied by a fee, payable at the office of the Zoning Officer at the time of application. The amount of such fees shall be established annually at the organizational meeting of the Town Board. A copy of said resolution setting said fees shall be available in the office of the Town Clerk and the office of the Zoning Officer.

**31.11.9 ZONING BOARD OF APPEALS****A. Creation and Membership**

There is hereby established a Zoning Board of Appeals having the powers authorized under the Consolidated Laws of the State of New York. Said Board shall consist of seven (7) members, appointed by the Town Board. An appointment to a vacancy occurring prior to expiration of term shall be for the remainder of the unexpired term.

**B. Training and Continuing Education**

In making appointments to the Zoning Board of Appeals, the Town Board may require ZBA members to complete training and continuing education courses in accordance with any local requirements for the training of such members. The Town Board may reimburse the members for appropriate expenses incurred in obtaining training. New Zoning Board of Appeals members shall be required to take eight hours of training within the first year of appointment. After their first year of service, all members shall henceforth be required to take a minimum of four hours per year thereafter. All training shall be relevant to that member's powers or duties on the Zoning Board of Appeals and sponsored by the New York State Association of Towns, New York Planning Federation, State of New York or any political subdivision thereof, or any such session approved by the Zoning Board of Appeals Chairman.

**C. Membership Performance**

1. No Zoning Board of Appeals member shall be absent from more than three consecutive meetings of the Zoning Board of Appeals or from a total of one third of the meetings of the Zoning Board of Appeals in any calendar year.
2. Failure of a Zoning Board of Appeals member to satisfy the attendance or training requirement shall be cause for removal from the Zoning Board of Appeals.

**D. Process for removing Zoning Board of Appeals member from office**

1. The Town Board shall have the power to remove, after public hearing, any member of the Zoning Board of Appeals for cause. Any Zoning Board of Appeals member may be removed for non-compliance with minimum requirements relating to meeting attendance and training as established by the Town Board by local law or ordinance.
2. A public hearing for the removal of a Zoning Board of Appeals member pursuant to this article shall be given said Zoning Board of Appeals member at least 10 days prior to the date of such public hearing.
3. The Town Board shall hold said public hearing at its next regularly scheduled meeting occurring 10 days following the delivery of notice to the Zoning Board of Appeals member as prescribed in b. above. The decision of the Town Board after said public hearing will be final and effective as of the date of the decision.

**E. Alternate Member Positions on the Zoning Board of Appeals**

1. There is hereby established two (2) alternate Zoning Board of Appeals member positions for purposes of substituting for a member in the event such member is unable to participate because of a conflict of interest, illness or absence.
2. Alternate members of the Zoning Board of Appeals shall be appointed by resolution of the town board, for terms established by the town board. The Town Board shall designate the two positions as Alternate 1 and Alternate 2.

3. The chairperson of the Zoning Board of Appeals may designate an alternate member to substitute for a member when such member is unable to participate because of a conflict of interest on an application or matter before the board or because of that member's illness or absence.
4. When the chairperson chooses to designate an alternate, the chairperson shall first designate the alternate whom the Town Board has appointed to the Alternate 1 position and shall only designate the person whom the Town Board has appointed to the Alternate 2 position if:
  - a. the chairperson has already designated Alternate 1 and Alternate 1 is then currently substituting for a member; or
  - b. Alternate 1 is unavailable for any reason.
5. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the Zoning Board of Appeals. Such designation shall be entered into the minutes of the initial Zoning Board of Appeals meeting at which the substitution is made.
6. All provisions of New York State Town Law, the Town of Gorham Zoning Local Law and any Town of Gorham rules, regulations, policies or procedures relating to Zoning Board of Appeals member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal, and service on other boards, shall also apply to alternate members.

#### F. Organization and Procedures

1. Appointment of Officers, Meetings
  - a. The Town Board shall appoint a chairman. The Board of Appeals shall adopt rules and regulations consistent with law or ordinance. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine.
  - b. The chairman or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.
2. The Zoning Board of Appeals shall establish such rules and regulations as are required by state and Local Laws for the transaction of its business and may amend, modify and repeal the same from time to time.

#### G. Hearings Open to the Public

Hearings of the Board of Appeals shall be public. The Board shall keep minutes of its proceedings, showing the action of the Board, and the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its inspections and other official actions, all of which shall be a public record.

#### H. Quorum, Voting

The presence of four (4) members shall constitute a quorum. The Zoning Board of Appeals shall act by resolution. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement or decision or determination of the Zoning Officer or to decide in favor of the applicant any matter upon which it is required to pass under this Local Law or to grant any variation from the requirements of this Local Law.

#### I. Powers and Duties

##### 1. Action of the Board of Appeals

In exercising its powers, the Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may value such order, requirement, decision or determination as in its judgment ought to be made in

accordance with the provisions of this Local Law and pursuant to the Consolidated Laws of the State of New York.

2. Hear and Decide Appeals

- a. To hear and decide appeals where it is alleged that error or misinterpretation in any order, requirement, decision, grant or refusal made by the Zoning Officer or other administrative official in the carrying out or enforcement of the provisions of this Local Law or any local law or ordinance pursuant thereto.
- b. Such appeal may be taken by any person aggrieved, or by an officer, board, or department of the Town. Such appeal shall be taken within 60 days after the filing in the Town Clerk's office of any order, requirement, decision, interpretation or determination of the Zoning Officer.
- c. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

3. Interpretation

The ZBA may issue interpretations of the Zoning Local Law upon request from any party.

4. Hold Public Hearings

- a. The Zoning Board of Appeals shall hold public hearings, as required, and as may be permitted by this Local Law, prior to issuing a decision on a request for variance, interpretation, or other appeal.
- b. The applicant shall place one (1) sign on the property for which a variance or other appeal is requested. Said sign shall be provided by the Zoning Officer. The sign shall be placed in a location that is easily read from a public street. The sign shall specify the date, time and place of the public hearing and a telephone number to call for more specific information. Such sign shall be placed on the site not less than ten (10) days prior to the public hearing and shall be brought to the hearing by the applicant or his designated representative.

5. Hear and Decide Area Variances

- a. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such Local Law or Local Law, or in conjunction with an application for Site Plan Review or subdivision approval, to grant area variances.
- b. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the board shall also consider:
  - i. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
  - ii. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
  - iii. Whether the requested area variance is substantial.
  - iv. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

- v. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.
  - c. in the case of a setback variance from a public or private right-of-way would result in a setback of a principal or accessory structure of less than 20 feet from such public or private right-of-way, the ZBA shall determine that visibility along such right-of-way shall not be unduly compromised, and that off-street parking shall be located in such a way that visibility and safety is not unduly compromised, or that the hardship is of such a magnitude that they offset such compromises in visibility and safety. Wherein the ZBA finds the latter adjacent to a public right-of-way, the ZBA shall request a written opinion concerning the magnitude of compromise of visibility and safety from the agency of competent jurisdiction over such public right-of-way (for example, Town Highway Superintendent, County Commissioner of Public Works, or New York State Department of Transportation), and shall factor such opinions into its decision.
  - d. The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
6. Hear and Decide Use Variances
- a. The Zoning Board of Appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of this Local Law, shall have the power to grant, grant with conditions, or deny use variances.
  - b. No such use variance shall be granted by the Zoning Board of Appeals without showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that, for each and every permitted use under the zoning regulations for the particular district where the property is located:
    - i. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence provided by the applicant.
    - ii. The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood.
    - iii. The requested use variance, if granted, will not alter the essential character of the neighborhood.
    - iv. The alleged hardship has not been self-created.
  - c. The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

#### J. Imposition of Conditions

The Zoning Board of Appeals may, in the granting of both use variances and area variances, impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Local Law, and shall be imposed for the purpose of minimizing any adverse impact that such variance may have on the neighborhood or community.

#### K. Rehearings

Any member of the ZBA may make a motion for the ZBA to hold a rehearing to review any order, decision or determination of the board that has not been previously reheard. A unanimous vote of all members of the board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the board finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

### **31.11.10 PLANNING BOARD**

#### **A. Creation and Membership**

There is hereby established a Planning Board having the powers authorized under the Consolidated Laws of the State of New York. Said Board shall consist of seven (7) members, appointed by the Town Board. An appointment to a vacancy occurring prior to expiration of term shall be for the remainder of the unexpired term.

#### **B. Training and Continuing Education**

In making appointments to the Planning Board, the Town Board may require Planning Board members to complete training and continuing education courses in accordance with any local requirements for the training of such members. The Town Board may reimburse the members for appropriate expenses incurred in obtaining training. New Planning Board members shall be required to take eight hours of training within the first year of appointment. After their first year of service, all members shall henceforth be required to take a minimum of four hours per year thereafter. All training shall be relevant to that member's powers or duties on the Planning Board and sponsored by the New York Association of Towns, New York Planning Federation, State of New York or any political subdivision thereof, or any such session approved by the Planning Board Chairman.

#### **C. Membership Performance**

1. No Planning Board member shall be absent from more than three consecutive meetings of the Planning Board or from a total of one-third of the meetings of the Planning Board in any calendar year.
2. Failure of a Planning Board member to satisfy the attendance or training requirement shall be cause for removal from the Planning Board.

#### **D. Process for removing Planning Board member from office**

1. The Town Board shall have the power to remove, after public hearing, any member of the Planning Board for cause. Any Planning Board member may be removed for non-compliance with minimum requirements relating to meeting attendance and training as established by the Town Board by local law or ordinance.
2. A public hearing for the removal of a Planning Board member pursuant to this article shall be given said Planning Board member at least 10 days prior to the date of such public hearing.
3. The Town Board shall hold said public hearing at its next regularly scheduled meeting occurring 10 days following the delivery of notice to the Planning Board member as prescribed in b. above. The decision of the Town Board after said public hearing will be final and effective as of the date of the decision.
4. Town Board shall select a Chairman of the Planning Board, or on failure to do so, the Planning Board shall elect a chairman from its own members.

E. Alternate Member Positions on the Planning Board.

1. There is hereby established two (2) alternate Planning Board member positions for purposes of substituting for a member in the event such member is unable to participate because of a conflict of interest, illness or absence.
2. Alternate members of the Planning Board shall be appointed by resolution of the town board, for terms established by the town board. The Town Board shall designate the two positions as Alternate 1 and Alternate 2.
3. The chairperson of the Planning Board may designate an alternate member to substitute for a member when such member is unable to participate because of a conflict of interest on an application or matter before the board or because of that member's illness or absence.
4. When the chairperson chooses to designate an alternate, the chairperson shall first designate the alternate whom the Town Board has appointed to the Alternate 1 position and shall only designate the person whom the Town Board has appointed to the Alternate 2 position if:
  - a. the chairperson has already designated Alternate 1 and Alternate 1 is then currently substituting for a member; or
  - b. Alternate 1 is unavailable for any reason.
5. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the Planning Board. Such designation shall be entered into the minutes of the initial Planning Board meeting at which the substitution is made.
6. All provisions of New York State Town Law, the Town of Gorham Zoning Local Law and any Town of Gorham rules, regulations, policies or procedures relating to Planning Board member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal, and service on other boards, shall also apply to alternate members.

F. Powers and Duties of the Planning Board

The Planning Board shall have the following powers and duties:

1. To review and recommend revisions to the comprehensive plan for the development of the Town as provided under Section 272-a of Town Law and/or Town Board Resolution.
2. To review and comment on all proposed zoning amendments and to make investigations, maps, reports and recommendations relating to the planning and development of the Town as it deems desirable. This shall include but not be limited to changes in boundaries of districts, recommended changes in the provisions of this local law, other land use and development matters of importance to the Planning Board, and to act on any matter lawfully referred to it by the Town Board.
3. To review Site Plans as authorized by New York State Town Law and prescribed in Article 10 of this Local Law.
4. To review applications for Special Use Permits as authorized by Article 9 of this Local Law.
5. To review proposals to approve or disapprove the laying out, closing off, abandonment or changes in lines of streets, highways and public areas and to make recommendations to the Town Board.
6. To review, act on or provide advisory reports as specified by this local law.
7. To make referrals to other Town Departments, Boards and/or officials to request advisory opinions to assist the Planning Board in making decisions which affect the development of the Town.
8. All such powers and duties as are conferred upon Town Planning Boards and subject to the limitations set forth in Sections 272, 272-a, 274, 274-a, 275, 276, 277, 278, and 281 of the

New York State Town Law, as the same may be amended, modified, or changed from time to time, or any sections subsequently adopted pertaining to Planning Boards.

G. Planning Board Office

The Office of the Zoning Officer shall be the Office of the Planning Board. Every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed in said office as required by the Town Law of the State of New York. The Planning Board shall keep minutes of its proceedings, showing the vote, indicating such fact, and shall keep records of its environmental reviews and determination, its examinations and other official actions.