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## **CHAPTER 2 GENERAL STANDARDS OF PERFORMANCE**

In case of doubt, the Code Enforcement Officer may employ such independent, recognized consultant necessary, after prior notification to and at the expense of the applicant, to assure compliance with all requirements of this Code related to the public health, safety and welfare and the abatement of nuisances. The estimated costs of such studies shall be deposited with the Town prior to their undertaking. To ensure compliance with all requirements of this Chapter, which are intended to protect the public health, safety, and welfare and promote the abatement of nuisances, the Town may, by ordinance, require an applicant for such municipal permits to deposit funds with the Town to cover costs associated with independent consulting or peer review, in accordance with Section 2-9 of this Chapter.

### **SECTION 2-1 - ENVIRONMENTAL**

#### **A. SOIL SUITABILITY**

- 1) In all districts, the approval of building permit applications shall be subject to evidence of satisfactory subsurface soil conditions for drainage and sewage disposal, and where on-site septic disposal is proposed shall be subject to prior obtainment of a plumbing permit.
- 2) The soil shall be suitable for the intended uses. Soils as identified by the National Cooperative Soil Survey Classification shall be considered suitable when rated "fair" and "good" for the specific uses proposed in the current Soil Suitability Guide for Land Use Planning in Maine, issued by the Soil Conservation Service of the U. S. Department of Agriculture, which document is embraced and made part of this Code. It is further understood that soil with "slight" or "moderate" limitations for septic sewage disposal shall be suitable as set forth in the Interim Soil Survey Report for Gorham Township, issued by the Cumberland County Soil and Water Conservation District, dated 1970, which document is also embraced and made part of this Code.
- 3) The requirements and standards of the State of Maine Department of Environmental Protection shall be met.
- 4) Where site limitations are shown to be severe or very severe in accordance with the aforementioned requirements, guidelines and standards, approval of the building permit application shall require remedial measures which in turn shall comply fully with all applicable codes for health, sanitation, plumbing, conservation, erosion control and pollution prevention and abatement. In no instance shall a septic disposal system be allowed in soil rated "poor" or "very poor" for such purpose in the current Soil Suitability Guide, although it is recognized that in some cases modification of such soil may be possible to effect a change of soil characteristics adequate for the installation of a septic disposal system as may be permitted in accordance with other provisions of this Code

#### **B. PREVENTION OF EROSION**

- 1) No person shall perform any act or use of the land in a manner which would cause substantial or avoidable erosion, create a nuisance, or alter existing patterns of natural water flow in the Town. This shall not affect any extractive operations complying with the standards of performance specified elsewhere in this Code.
- 2) All development shall generally comply with the following guidelines for prevention of erosion:
  - a) Select a site with the right soil properties, including natural drainage and topography, for the intended use.
  - b) Utilize for open space uses those areas with soil unsuitable for construction.

- c) Preserve trees and other vegetation wherever possible.
- d) Hold lot grading to a minimum by fitting the development to the natural contour of the land; avoid substantial areas of excessive grade.
- e) Spread jute matting or straw during construction in critical areas subject to erosion.
- f) Construct sediment basins to trap sediment from run-off waters during development. Expose as small an area of subsoil as possible at any one time during development and for as short a period as possible.
- g) Provide for disposing of increased run-off caused by changed land formation, paving and construction, and for avoiding sedimentation of run-off channels, on or off the site.
- h) Plant permanent vegetation and install structures as soon as possible for the purpose of soil stabilization and re-vegetation adequate to meet the minimum standards of the Cumberland County Soil and Water Conservation District Technical Guide, Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, and subsequent amendments thereto.

C. MINERAL EXPLORATION, EXCAVATION AND GRAVEL PITS

- 1) Purpose - The purpose of this ordinance is to regulate both new and existing sand and gravel and other quarrying operations, including the removal, processing and storage of topsoil or loam, rock, sand, gravel and other earth materials hereinafter "gravel pit"). These regulations are intended to protect the quality and quantity of ground and surface waters, control erosion, provide for the reclamation and rehabilitation of new and existing pits for future uses compatible with the surrounding neighborhood, and to minimize any adverse impact of such pit operations on adjacent and nearby properties.
- 2) Application - This ordinance, including the operational requirements of Subsection 5 and the reclamation requirement of Subsection 6 as provided therein, shall apply to all gravel pit operations in existence on the effective date of this ordinance as well as new operations. To qualify as an existing pit operation, the pit must be a lawful use under the Zoning Ordinance at August 5, 1989, must have been in operation at some time over the five (5) years immediately preceding August 5, 1989, must have been in full compliance with all Town ordinances during all such times of operation, and had at least one thousand (1,000) cubic yards of earth materials lawfully removed from the site during that time. This ordinance shall not, however, apply to the following activities:
  - a) Excavation, the sole purpose of which is to determine the nature or extent of mineral resources, which is accomplished by hand-sampling, test boring or other methods which create minimal disturbance. Test holes shall be filled in immediately after use.
  - b) Excavation necessarily incident to construction, alteration, or grading for which a building permit has been issued.
  - c) The excavation of earth materials from one portion of a lot for use on another portion of the same lot, for use on a contiguous lot of the same owner, or for agricultural use on another lot of the same owner.
  - d) The removal of less than two hundred cubic yards of material (except topsoil) in any one year from any single tract of land, provided such removal does not disturb more than one (1) acre of land.

part of normal farm operations or the topsoil or loam is being moved to a contiguous site having the same ownership.

No site plan review shall be required for any earth material extraction/processing project reviewed under this Ordinance.

In the case of multiple successive pits on the same property, all such pits shall be deemed part of a single pit operation for all purposes under this ordinance except for such pits as have been fully reclaimed pursuant to Subsection 6 for at least five (5) years.

3) Existing Pit Registration: Application for Expansion of Existing Pit Operations

a) Registration Requirements

- (1) Within one hundred eighty (180) days of August 1, 1989 all gravel pit operations existing as of that date shall be registered with the Planning Board and submit the following:
  - (a) initial registration fee of \$200.00;
  - (b) names and addresses of the current owner of the property and the pit operator, and a copy of the deed or lease if the operator is not the property owner;
  - (c) evidence that the pit qualifies as an existing operation as defined above, surface area, depth and slope ratios of the operation as of August 5, 1989. The registrant shall also provide evidence of the amount of earth materials annually excavated, whether processing of materials is done on the site and the nature and amount of that processing, the average daily number of trucks taking materials out or bringing materials to the site (each listed separately and based on regular calendar quarters, and the number of employees working the pit. The registrant shall submit such evidence as will satisfy the requirements of this Subsection including the most recent aerial photographs of the Town unless the registrant can otherwise demonstrate to the satisfaction of the Planning Board full documentation of all the required data.
  - (d) for existing pits larger than five (5) acres or more surface area of August 5, 1989, a reclamation program must be submitted and approved by the Town Engineer based on his determination that the proposed program will adequately provide for slope stability, soil erosion and sedimentation control.
- (2) Any operation not registered, or which fails to qualify to be registered, pursuant to this Subsection shall be deemed closed and may not after such 180 day period continue or resume operation except as provided in Subsection 4 below. Upon written application to the Planning Board and for good cause shown, demonstrating an inability to meet the initial registration deadline, the Planning Board may extend the period of registration to one year from the effective date of this ordinance. The additional fee for such late registration shall be \$100.00.

- (3) The Planning Board shall review all such registration applications and, if the registrant has demonstrated compliance with all applicable submission requirements, issue a certificate of registration to the applicant. Thereafter the pit may continue to operate subject only to the renewal provisions and, as applicable, the expansion and reclamation requirements otherwise provided in the ordinance.
- (4) The Planning Board shall maintain a permanent record of all such submissions and registrations, and no gravel pit may operate, after such 180 day period unless listed thereon or approved under Subsection 4. Further, all such registration must be renewed annually on the anniversary of the original registration date by the Town Engineer and the CEO or his designate pursuant to such forms as the Planning Board shall provide or the pit shall be deemed closed in which case the provisions of Subsection (a)(2) above shall control. The renewal fee shall be in such amount(s) and for such purpose(s) as the Town Council may from time to time establish by Council order.

b) Expansion of Existing Operations

- (1) Permit Application Requirements. No gravel pit operation existing as of August 5, 1989 may expand without first obtaining an Expansion of Existing Pit permit from the Planning Board. For pits less than five (5) acres in surface area as of (effective date), expansion is defined as an increase to five (5) acres, then an additional fifty percent (50%) in surface area: for pits larger than five (5) acres, expansion is defined as an increase of fifty percent (50%) surface area or four additional acres, whichever comes first. The applicant shall submit the following to the Planning Board:
  - (a) application fee in such amount(s) and for such purpose(s) as the Town Council may from time to time establish by Council order;
  - (b) names and addresses of the current owner of the property and of the current operator, and copy of the deed or lease agreement if the operator is not the owner;
  - (c) a site plan, drawn to scale, showing the location and boundaries of the property, the existing excavated area, all areas intended for expansion of excavation (with surface area measurement) and, where the expansion area itself is to exceed five (5) acres, a boundary survey of the area proposed for expansion; an estimated time schedule for future excavation, reclamation and closure; parking areas and road access to the excavation site, exposed ground water, all temporary and permanent structures located on the property, and any accessory activities related to the operation, including the processing of materials brought to the site from another location; and other applicable site plan review requirements of Chapter 4, Section 4-6;
  - (d) a plan showing how access to the site will be controlled;
  - (e) a plan showing the location of hazardous materials and provisions for safe storage; no hazardous materials shall be located or stored such that they will enter the ground water table;

- (f) an erosion and sedimentation control plan designed to the standards of the Cumberland County Soil and Water Conservation District;
- (g) a reclamation plan pursuant to Subsection 6 of this section:
- (h) identification of all required state and/or federal permits, including, if applicable, a Department of Environmental Protection permit;
- (i) a performance guarantee in the form of a bond, letter of credit, or such other financial instrument as deemed satisfactory by the Town Manager covering the cost of the reclamation plan;
- (j) a list of all abutting property owners;
- (k) for expansion of five (5) acres or more, the applicant shall also comply with the submission requirements of Subsection 4(a)(10).

(2) Plan Review

- (a) The Planning Board shall review each application for a permit for Expansion of Existing Pit according to the special exception approval standards of Section 1-4 (E) of Chapter I, site plan approval standards of Section 4-9 (B, C, D, F, J, M, P and T) of Chapter 4, and the other applicable requirements of this Ordinance. The Planning Board shall hold a public hearing on the same. Notice shall be sent to all abutting property owners and all owners of property within 500 feet no less than fourteen (14) days in advance of the hearing. Failure of any property owner to receive notice shall not invalidate the hearing. It shall be the applicant's burden to prove compliance with each of these approval standards.
- (b) To help recover costs incurred by the Town in the review, administration, site inspection, and public notice associated with the Expansion of an Existing Pit application, the following fees and deposit in such amount(s) and for such purpose(s) as the Town Council may from time to time establish by Council order shall be paid by the applicant to the Town of Gorham at the time of filing the Expansion of an Existing Pit application:
  - 1. Publishing and public notice fee;
  - 2. Application fee; and
  - 3. Independent consulting and peer review escrow account to be established with the Town in accordance with Chapter 2, Section 2-9 of this Code.

All fees shall be non-refundable except unexpended escrow deposits, which shall be refunded in accordance with Chapter 2, Section 2-9, Subsection (B) of this Code. If an Expansion of an Existing Pit application is also subject to subdivision review, site plan or municipal review under any other ordinance, the applicant shall pay only the larger review fee amount exclusive of escrow deposit.

(c) The Planning Board shall approve, deny or approve with conditions any such application within ninety (90) days of its public hearing provided any such conditions of approval directly relate to the specific approval standards contained in this ordinance. Where considered necessary by the Planning Board to determine compliance with the approval standards, the Board may require additional information be provided by the applicant.

c) Registration/Expansion Exemption

Notwithstanding other requirements of Section 2-3 to the contrary, no gravel pit which has actually obtained D.E.P. site location approval within the two (2) years immediately preceding August 5, 1989 need obtain any registration or expansion permits under this Section, provided the D.E.P. permit and application plans as approved are filed with the C.E.O. Such plans shall be deemed registered and approved by the Town provided any changes shall thereafter require Town approval.

4) Application for New Pit Operations

a) Permit Application Requirements. No new gravel pit or pre-existing pit which failed to meet registration requirements of Section 2-3 may commence operations without first applying to the Planning Board for a new pit operations permit. The following shall be submitted with the permit application:

- (1) initial application fee in such amount(s) and for such purpose(s) as the Town Council may from time to time establish by Council order;
- (2) names and addresses of current owner of the property and the current operator of the operation, and a copy of the deed or lease agreement if the operator is not the owner;
- (3) a site plan, drawn to a scale of one inch to one hundred feet, showing the location and boundaries of the property; the boundaries of proposed excavation areas (a boundary survey shall be required for any proposed pit in excess of five (5) acres); the present use of the entire property including any existing excavated areas; present uses of adjacent property; the location of all proposed access roads, parking areas and temporary and permanent structures; the type and location of all existing surface and ground water, including location of existing wells and streams, drainage ways, and depth to ground water at the site of the proposed excavation as determined by test borings and other geotechnical methods; the contours of the land within and extending beyond the boundaries of the parcel for two hundred (200) feet at five (5) foot contour intervals, or at intervals acceptable for a Department of Environmental Protection permit application; and the location of all proposed hazardous material storage areas; and other applicable site plan review requirements of Chapter 4, Section 4-6.
- (4) A plan for controlling access to the site. The Planning Board may impose such additional access limitations as the particular circumstances of the proposed operation require to meet approval standards of Section II-4.b. At a minimum, a solid gate with a lock shall be located at all entrances;
- (5) An operations statement, which shall include the approximate date of commencement of excavation and the duration of the operation,



proposed phasing of the operation, proposed hours and days of operation, the estimated volume of the excavation, the method of extracting and processing, including the disposition of topsoil or loam, the equipment proposed to be used in the operations, and the operating practices proposed to be used to prevent surface or groundwater pollution, and minimize noise, dust, air contaminants and vibration;

- (6) an erosion and sedimentation control plan designed to standards of the Cumberland County Soil and Water Conservation District;
- (7) a final reclamation plan pursuant to Section 2-1.C.6 of this section:
- (8) identification of all required State and/or Federal permits, including, if applicable, a Department of Environmental Protection permit;
- (9) a performance guarantee in the form of a bond, letter of credit, or such other financial instrument as deemed satisfactory by the Town Manager covering the cost of the reclamation plan;
- (10) for new pits of five (5) acres or more, the following additional submissions are required:
  - (a) A hydro geological study which shows the depth of ground water throughout the site and establishes that the gravel pit operation will not cause any pollution to ground water and/or surface water.
  - (b) A traffic study which sets forth what the maximum estimated volume of traffic into and out of the pit will be, which describes the kinds of trucks and equipment which will be going into and out of the pit, which describes any existing or potential traffic hazards on roads servicing the site and applicant's plans to address them, and which describes the ability of such roads physically to withstand the additional traffic generated by the site. The study shall consider the actual existing traffic condition in the vicinity of the pit.

b) Plan Review

- (1) The Planning Board shall review each application for a new Pit Operations permit according to the special exception approval standards of Section 1-4(E) of Chapter 1, site plan approval standards of Section 4-9(B, C, D, F, J, M, P and T) of Chapter 4 and the other applicable requirements of this ordinance. The Planning Board shall hold a public hearing on the same. Notice of the hearing shall be sent to all abutting property owners and all owners of property within 500 feet no less than fourteen (14) days in advance of the hearing. Failure of any property owner to receive notice shall not invalidate the hearing. It shall be the applicant's burden to prove compliance with each of these approval standards.
- (2) To help recover costs incurred by the Town in the review, administration, site inspection, and public notice associated with the New Pit Operations application, the following fees and deposit in such amount(s) and for such purpose(s) as the Town Council may from time to time establish by Council order shall be paid by the applicant to the Town of Gorham at the time of filing the New Pit Operations application:

1. Publishing and public notice fee;
2. Application fee; and
3. Independent consulting and peer review escrow account to be established with the Town in accordance with Chapter 2, Section 2-9 of this Code.

All fees shall be non-refundable except unexpended escrow deposits, which shall be refunded in accordance with Chapter 2, Section 2-9, Subsection B of this Code. If a New Pit Operations application is also subject to subdivision review, site plan or municipal review under any other ordinance, the applicant shall pay only the larger review fee amount exclusive of escrow deposit.

- (3) The Planning Board shall approve, deny or approve with conditions any such application within ninety (90) days of its public hearing provided any such conditions of approval directly relate to the specific approval standards contained in this ordinance. The Planning Board may also include conditions of approval that relate to the safety and protection of persons who might access the site, including but not limited to site or operations area fencing and signage. Where considered necessary by the Planning Board to determine compliance with the approval standards, the Board may require additional information be provided by the applicant.

#### 5) Operational Requirements for New and Existing Pits

Unless otherwise expressly provided, the following requirements apply to all gravel pits; provided, however, any existing gravel pit lawfully in operation at the effective date of this ordinance which does not comply with these operational requirements shall be grandfathered with regard to such deficiencies except that there shall be no grandfathered rights as to hours of operation in paragraph d, duty to minimize dust in paragraph (e), and erosion and sedimentation control as provided in paragraph (g); provided, further, any such grandfathering shall not apply to any area for which an expansion permit is required.

- a) A buffer strip of 100 feet from all public rights of way and two hundred (200) feet from all other boundaries of the property is required except in the instance of a waiver as provided in this section. The slopes of the side of the pit shall be no more than 3:1. This slope requirement shall not apply to a quarry that is operating under a Notice of Intent to Comply filed with the Maine Department of Environmental Protection under the provisions of 38 M.R.S.A., section 490-Y or under any other quarry permit, license or approval issued by the Maine Department of Environmental Protection. No excavation is permitted within the buffer strip of any pit, including a quarry, except where provided for within. Natural vegetation shall be retained within the buffer area, except as recommended by a professional forester pursuant to Best Forest Management Practices and approved by the Planning Board. To the extent necessary to protect neighboring uses from dust, noise and unsightly appearance, the Planning Board may require the applicant to provide screening, berm or a combination where there is an inadequate natural buffer. No excavation, including such operations existing at the time of adoption of this ordinance shall encroach into these buffer strips and no existing operation lawfully located within such buffer areas shall be permitted to expand closer to such line or lines. Except that applicants with new and existing excavations may apply for a waiver of the 200 foot buffer

strip in any of the instances described below, and the Board shall grant such waiver in the case of

- (1) two abutting working gravel pits where the Planning Board may waive the requirement for any buffer,
- (2) where the pit abuts unbuildable land of a public utility provided the excavation remains at least one hundred (100) feet from the far side of the public utility's property line, and in no case shall it be any closer than ten (10) feet from the public utility's property line.
- (3) where all adjacent property owners within the area of reduced buffer agree to a lesser distance. Any such agreed upon reduction (to not less than a 10 foot buffer) will be consistent with the purposes of this ordinance in Section 2-1.C.1, The buffer strip may be reduced upon recording by all abutting property owners within the area of reduced buffer of reciprocal deeds stating that each agrees to the waiver. In the event of a reduced buffer under this subsection, the pit shall not be subject to the noise limits established by subsection 4 of this section of Chapter 2, Section H of this Code in the area of the boundary reduced under the terms of this subsection if the abutting property owner agrees that the noise limits will not apply to the shared property line or that the noise limits may exceed an amount established in writing. Any agreement concerning the noise levels shall be included in the reciprocal deeds.
- (4) the applicant may apply to reduce the buffer from two hundred (200) feet to not less than one hundred (100) feet, which reduction the Planning Board shall grant, provided that the applicant demonstrates:
  - (a) Noise generated at the excavation site, including noise generated within the reduced setback area, may not exceed the noise requirements set forth in Chapter 4 Section 4-9.T of this Code.
  - (b) the applicant provides a satisfactory plan to control the migration of dust that results from the mining operation which may include sweeping, paving, watering or other best management practices, and
  - (c) the applicant has provided a satisfactory plan to visually screen the mining operation from properties adjacent to the area proposed for a reduced buffer. Screening may include maintenance of existing vegetation, growth, or in-fill planting to increase density of vegetation, the placement of earth berm or other best management practices.
- b) Excavation shall not extend below an elevation of five (5) feet from the seasonal high water table as established by competent, technical data. A variance from this requirement shall be allowed pursuant to paragraph 490-E, Variance, Performance Standards for Excavation for Borrow, Clay, Topsoil or Silt, 38 M.R.S.A. Sec 490-A-490-M and Article 8, Performance Standards for Quarries, 38 M.R.S.A. Sec. 490-W to 490-EE. The request for variance shall consist of a hydro geologic study and supporting documentation required by the Department of Environmental Protection. The variance shall be reviewed and approved by the Department of Environmental Protection. Planning Board approval shall be conditioned on Department of Environmental Protection approval. No standing water shall

be allowed to remain longer than two consecutive calendar weeks unless specifically provided for by the Planning Board.

- c) The average slope of any cut bank measured from the top of the slope to the toe of the slope shall not exceed a horizontal to vertical ratio of 2:1; provided, that any gravel pit in lawful operation at the effective date of this ordinance whose slopes exceed this requirement may maintain, but not increase, such nonconforming slopes; provided, further, that for an expanded pit area or new pit area which exceed five (5) acres in size, the slope for such areas may not exceed 3:1. These slope requirements will not apply to a quarry that is operating under a Notice of Intent to Comply filed with the Maine Department of Environmental Protection under the provisions of 38 M.R.S.A. Sec. 490-Y or under any other quarry permit, license or approval issued by the Maine Department of Environmental Protection, except for those extraction operations that occur in any area where a buffer has been reduced under the provisions of Section 2-I(C)(5)(a) of this Chapter.
- d) Hours of operation shall be limited to 6:00 a.m. to 6:00 p.m., Monday through Friday and 8:00 a.m. to 2:00 p.m. Saturday; provided, however, the Planning Board may extend Saturday hours of operation to 5:00 p.m. if it determines that such extended hours will not unreasonably interfere with neighboring residential uses existing at the time of the request. Where a mineral extraction operation abuts a lot with an industrial operation that uses produce from the mineral extraction operation as part of its manufacturing use, the Planning Board may approve additional hours of operation for the mineral extraction operation so that the hours are consistent with the hours of operation of the abutting industrial use. The extended hours of operation shall be limited to the area of the mineral extraction operation located within one hundred (100) feet of the boundary line of the abutting industrial use lot. This area of the mineral extraction operation shall be included in any site plan or other review for the industrial operation. In no event shall any crushing or screening of materials or mining occur during any extended hours of operation.
- e) All access roads outside the pit within the buffer area prescribed in subsection (a) above of public roads or adjoining property shall be paved and otherwise regularly treated with water or calcium chloride spray to minimize dust conditions.
- f) Rock and stone crushing shall be permitted as an accessory use to sand and gravel excavation operations, shall be limited to 7:00 a.m. to 5:00 p.m. Monday through Friday, and may be prohibited or further restricted by the Planning Board if it will unreasonably interfere with residential uses existing at the time of application. The Planning Board may require water bars on crushing equipment if necessary to control dust. On an annual basis no more than thirty-three percent (33%) of all materials crushed or otherwise processed on the property of such excavation operation may be brought in from a location outside the property.
- g) Erosion and sedimentation on site shall be adequately controlled, based on guidelines of the Cumberland County Soil and Water Conservation District.
- h) Sufficient topsoil shall be retained to comply with the approved reclamation plan.

6) Reclamation

The following provisions apply with respect to any existing pit in excess of five (5) acres, any gravel pit for which approval has been obtained for expansion under Subsection 3, or a new pit under Subsection 4. A reclamation plan must be submitted to

the Planning Board, and the site shall be reclaimed in accordance with the requirements of this Section. The reclamation work shall be completed within nine months of the closing of a site (or a portion of a site with regard to phased reclamation plans) or approval of the reclamation plan, whichever occurs later. Reclamation of continuing operations shall be conducted in phases, if necessary, so that there is never open more

than fifteen (15) acres of pit area or fifty percent (50%) of the pit area for pits less than fifteen (15) acres in size. Failure to remove more than four hundred (400) cubic yards of material from a pit within any 24 month period shall trigger the obligation of the pit operator to commence reclamation. The following requirements shall be met:

- a) Specific plans shall be established to avoid hazards from excessive slopes. Where an embankment remains after the completion of operations, it shall be at a slope no steeper than one (1) foot vertical to two (2) feet horizontal; provided, further that for an expanded pit area or new pit area which exceeds five (5) acres in size, the slope for such areas may not exceed 3:1. These slope requirements shall not apply to quarries that have been operated under a Notice of Intent pursuant to 39 M.R.S.A. Sec. 490-Y or under any other quarry permit, license or approval issued by the Maine Department of Environmental Protection, except for those portions of a quarry where extraction operations have occurred in any area where a buffer has been reduced under the provisions of Section 2-1(C)(5)(a) of this Chapter.
- b) Exposed slopes shall be stabilized so that no significant erosion will occur. Loaming, seeding and planting, if required, shall be based on guidelines of the Cumberland County Soil and Water Conservation District. Sufficient top soil shall be retained on site to complete the site reclamation. The reclamation plan for any quarry shall include specific provisions to ensure the stability of any exposed rock faces.
- c) Overburdened soil shall be redistributed over the pit area or removed from the parcel. The areas of the pit with solid or broken ledge rock shall be trimmed of loose rock, and the bottom of the pit graded to be compatible with the surroundings.
- d) Grading and restoration shall be completed in such a manner that it will ensure natural drainage, prevent standing water and minimize erosion and sedimentation and be compatible with the planned end use of the reclaimed site. The pit shall be contoured so that sediment is not directed into streams or drainage ways.
- e) Upon default of any obligations to reclaim a pit under this Section, the Town may, after written notice and an opportunity to be heard by the Board of Appeals, cause the pit operator's reclamation plan to be implemented pursuant to the performance guarantee.
- f) Reclaimed areas shall be guaranteed for a period of eighteen (18) months following the substantial completion of reclamation, during which time the performance guarantee shall remain in full force and effect. A reclamation plans shall state specific time requirements for commencement and substantial completion, which times may be staggered for phased extraction work.

7) Blasting

No blasting shall be done in any gravel pit except in accordance with the following:

- a) If an operator of a gravel pit intends to do blasting, the operator shall apply to the Planning Board to obtain a license to blast. Such an application may be filed either separately or concurrently with any other application under this mineral extraction ordinance.
- b) In the application, the operator shall set forth in specific detail the reasons why such blasting is essential to economic viability of the operation.
- c) In addition, the application shall include a site plan showing the limits where the blasting will take place; a statement on the number of times that blasting will occur on an annual basis; identification by name, address and telephone number of the entity that will actually do the blasting; a detailed description

of the patterns and timing of each blast; a detailed description of all precautions which will be taken to insure that no damage will be done to surrounding properties; a detailed description of the devices and methods which will be used to monitor the effects of the blast (which shall include but not be limited to monitoring the seismic effect of the blast and performing both pre- and post-blasting inspections with photographs of all abutting properties); certificates of liability policies covering the blasting activity in an amount approved in advance by the Town Manager as sufficient to cover any damage reasonably likely to occur; a list of the names and addresses of all abutting property owners; and such other material as the Planning Board may require in order to review the license application.

- d) After the application is complete, the Planning Board shall schedule a public hearing to consider the application and each abutting property owner and owners of property within five hundred (500) feet shall be given notice no less than fourteen (14) days' notice in advance of the hearing. Failure of any property owner to receive notice shall not invalidate the hearing. Blasting applications shall be submitted and heard simultaneously with any other permits required under this ordinance.
- e) In order for the Planning Board to grant a license to blast, it must make specific findings that the operator has met its burden and established the following:
  - (1) That blasting is essential to the economic viability of the operation.
  - (2) That the blasting will be conducted in a manner which will cause no damage nor unreasonable disturbance to surrounding properties.
  - (3) That all blasts will be comprehensively monitored.
  - (4) That there is adequate insurance to protect against any damage which may result from the blasting activity.
- f) If the Board makes the above findings, then it shall issue a blasting license which will authorize the operator to conduct the blasts on the dates and in precise manner set forth in the operator's application.
- g) Under no circumstances shall the Board permit any blasting within one hundred fifty (150) feet of an adjoining property line.
- h) The records for each blast, including all monitoring records, shall be filed with the Town no more than ten (10) days after each blast, and all such records shall be available for public inspection and copying.

8) Violations: Enforcement

This ordinance shall be enforced by the C.E.O. and violations prosecuted in accordance with 30-A M.R.S.A. Sec. 4452, as amended.

9) Variances

Variances from the requirements of this Mineral Extraction Ordinance may only be granted by the Board of Appeals upon the applicant's showing of an undue hardship as defined in (and subject to the procedural requirements of) Section 1-4 of Chapter 1.

10) Appeals

Any person aggrieved by a decision of the Planning Board under this Ordinance may appeal the decision within thirty (30) days to Superior Court.

11) Separability

If any provision of this Mineral Extraction Ordinance is declared invalid by a court of competent jurisdiction, such decision shall not invalidate any other section or provision of this Ordinance.

D. FLOODPLAIN MANAGEMENT

The following conditions, standards or limitations shall apply to any development located within any area of special flood hazard (zones A and A1 through A30) identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Town of Gorham, Maine, Cumberland County" dated October 15, 1981 with the accompanying "Flood Insurance Rate Map" and "Flood Boundary Floodway Map".

- 1) No new building, structure, mobile home or septic system shall be constructed or located in an area of special flood hazard.
- 2) The substantial improvement of any residential or non-residential structure shall have the first floor elevated to or above the base flood elevation.
- 3) Prior to placing fill in an area of special flood hazard, a permit shall be obtained from the Code Enforcement Officer. No encroachments, including fill, construction, substantial improvements, or other development shall be permitted within the floodway portion of the floodplain unless a registered professional engineer certifies that such encroachment shall not result in any increase in flood levels during the occurrence of the 100-year flood.
- 4) The Code Enforcement Officer shall interpret the locations of the boundaries of special flood hazard areas based on the Flood Insurance Study and the Flood Insurance Rate Map. In areas of special flood hazard where base flood elevation data is not provided in the above cited study and maps, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation data available from Federal, State and other sources in order to determine the boundaries.

E. SHORELAND AREA PROTECTION

- 1) Purposes - The purpose of this subsection, by proper land use management practices, is to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion and sedimentation; to protect archaeological and historic resources; to protect freshwater wetlands; to control building sites, placement of buildings, structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas in accordance with the provisions of Title 38 Section 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.) as amended from time to time.
- 2) Applicability - This subsection applies to the "Shoreland area", which term is defined as all land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet, horizontal distance, of the upland edge of a freshwater wetland; and within 75 feet, horizontal distance, of the normal high-water line of a stream. This subsection also applies to any building or structure built on, over or abutting a dock, wharf or pier, or other building extending beyond the normal high-water line of a water body or within a wetland.
- 3) Districts and Zoning Map
  - a) Official Shoreland Zoning Map - The areas to which this subsection is applicable are hereby divided into the following overlay district and sub districts, which, district and sub districts collectively are referred to herein as the Shoreland Overlay District, as shown on the Official Shoreland Zoning Map which is made a part of this Ordinance:
    - i. Shoreland Overlay District
    - ii. Resource Protection Sub district
    - iii. Stream Protection Sub district
- 4) Interpretation of District Boundaries - The boundaries of the Shoreland Overlay District exist as set forth in Section 3) of this subsection. The depiction of the Shoreland Overlay District and associated sub districts delineated on the Official Shoreland Zoning Map, is illustrative of the general location of the District and sub district. The Boundaries of these District and sub districts shall be determined by measurement of the distance indicated on the maps from the normal high-water line of the water body or the upland edge of wetland vegetation, regardless of the location of the boundary shown on the map.

Where uncertainty exists as to the exact location of the District or sub district boundaries, the Code Enforcement Officer shall be the final authority.
- 5) Land Use Requirements - Except as hereinafter specified, no building/structure or land located within the Shoreland Overlay District shall hereafter be used or occupied, and no building/structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified and the regulations of the Land Use and Development Code, unless a variance is granted.
- 6) Non-conformance Within the Shoreland Overlay District
  - a) Purpose - It is the purpose of this subsection to encourage land use conformities, except that non-conforming conditions that existed before the effective date of this subsection or amendments thereto shall be allowed to continue, subject to the requirements set forth in this subsection and in



Chapter 1, Section 1-2 of the Gorham Land Use and Development Code. Except as otherwise provided in this subsection, a non-conforming condition shall not be permitted to become more non-conforming.

b) Non-conforming Buildings and Uses:

(1) **Enlargement:** A non-conforming building may be enlarged after obtaining a permit from the Board of Appeals, if such enlargement does not increase the non-conformity of the building/structure.

(a) If any portion of a building is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the building shall not be expanded in floor area or volume after January 1, 1989, by thirty percent (30%) or more, during the lifetime of the building. An expansion which increases either the volume or floor area of the building or any portion thereof that is less than the said required water setback by thirty percent (30%) or more is a substantial expansion which is prohibited unless a variance is obtained. If a replacement structure complies with the requirements of subsection 6)c)(3) of this Section and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area or volume since that date.

(b) Whenever a new, enlarged, or replacement foundation is constructed under a nonconforming structure, the building and new foundation are must be placed such that the setback requirement is met to the greatest practical extent as determined by the Board of Appeals, basing its decision on the criteria specified in subparagraph 6) b) (2), Relocation, below;. The construction, enlargement or replacement of a foundation shall not be considered to be an expansion of the structure if the completed foundation does not extend beyond the exterior dimensions of the building, except for an expansion in compliance with subsection 6)b)(1)(a); and that the foundation does not cause the building to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure from original ground level to the bottom of the first floor sill.

(c) No building which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream, or wetland.

(2) **Relocation:** A non-conforming building may be relocated within the boundaries of the parcel on which the building is located provided that the site of relocation conforms to the water setback requirements to the greatest practical extent as determined by the Board of Appeals, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules, (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a building be relocated in a manner that causes the building to be

more non-conforming. In determining whether the building relocation meets the setback to the greatest practical extent, the Board of Appeals shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other buildings on the property and on adjacent properties and the type and amount of vegetation to be removed to accomplish the relocation, the location of the septic system and other on-site soils suitable for septic system and other on-site soils suitable for septic systems. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Board of Appeals shall require replanting of native vegetation to compensate for the destroyed vegetation. Replanting shall be required as follows:

- (a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five (5) trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed. Other woody and herbaceous vegetation and ground cover that are removed or destroyed in order to relocate a structure must be reestablished. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.
  - (b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation that may consist of grasses, shrubs, trees or a combination thereof.
- (3) Reconstruction or Replacement: Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland may be reconstructed or replaced provided that a permit is obtained within one year of the date of damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water setback requirement to the greatest practical extent as determined by the Board of Appeals in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity. If the reconstructed or replacement structure is located in less than the required setback, it shall not be any larger than the original structure, except as allowed pursuant to subsection 6) b)(1)(a), as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with subsection 6) c)(2). In determining whether the building reconstruction or replacement meets the water setback to the greatest practical extent the Board of Appeals shall consider in addition to the criteria in subparagraph 6)

b) (2) above, the physical condition and type of foundation present, if any.

- (4) Expansions: Expansions of non-conforming uses are prohibited except that non-conforming residential uses may, after obtaining a permit from the Board of Appeals, be expanded within existing residential structures or within expansions of such structures as permitted in subparagraph 6) b) (1) above.

7) Establishment of District and Sub districts

- a) Shoreland Overlay District - This District consists of the shore land area and any and all buildings and structures built on, over or abutting a pier, dock, wharf and any and all buildings and structures extending beyond the normal high-water line of a water body or within a wetland. The Shoreland Overlay District includes the Resource Protection Sub district and the Stream Protection Sub district.

- b) Resource Protection Sub District - This sub district shall include the following areas when they occur within the limits of the Shoreland Overlay District, exclusive of the Stream Protection Sub district, except that areas which are currently developed need not be included within the Resource Protection Sub district.

- (1) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department of Environmental Protection as of May 1, 2006. For the purposes of this paragraph, "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river.
- (2) Flood plains along rivers and flood plains along artificially formed great ponds along rivers, defined by the 100 year flood plain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
- (3) Areas of two or more contiguous acres with sustained slopes of 20% or greater.
- (4) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
- (5) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement.

- c) Stream Protection Sub District - This sub district includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water

line of a stream exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond or river and within two-hundred fifty (250) feet, horizontal distance, of the upland edge of a freshwater wetland. Where a stream and its associated shoreland area is located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area should be regulated under the terms of the shoreland sub district associated with that water body or wetland.

- 8) Land Uses in the Shoreland Overlay District - All permitted uses and special exception uses within the zoning district underlying the Shoreland Overlay District may be commenced, maintained, enlarged or expanded as provided in the Land Use and Development Code subject to the provisions of this Subsection, except that within the Resource Protection and Stream Protection Sub districts only those uses listed in subparagraphs 8 a) and 8 b) below are permitted.

- a) Only the following uses are permitted in the Resource Protection Sub district, subject to all applicable performance standards, and all other uses allowed in the underlying district(s) as permitted uses and special exception uses are prohibited:
- (1) Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking;
  - (2) Motorized and non-motorized vehicular traffic on existing roads, trails and rails;
  - (3) Hiking trails, inactive trails, bridle paths, pedestrian trails and walkways;
  - (4) Forest management activities, except for timber harvesting and land management roads;
  - (5) Timber harvesting;
  - (6) Fire prevention activities;
  - (7) Wildlife management activities;
  - (8) Soil and water conservation activities;
  - (9) Surveying and resource analysis;
  - (10) Emergency operations;
  - (11) Agriculture;
  - (12) Gravel pits;
  - (13) Non-residential facilities for educational, scientific or nature interpretation purposes;
  - (14) Aquaculture;
  - (15) Buildings and structures accessory to existing residential buildings and to uses permitted herein;
  - (16) Permanent and temporary piers, docks, wharves, bridges and other structures and uses extending over or below the normal high-water line or within a wetland:

- (17) Public and private recreational areas involving minimal structural development;
  - (18) Parking facilities where the resource protection designation is due to floodplain criteria;
  - (19) Road construction;
  - (20) Public utility structures;
  - (21) Clearing or removal of vegetation for activities other than timber harvesting;
  - (22) Filling and earth-moving activities; and
  - (23) Signs.
- b) Only the following uses are permitted in the Stream Protection Sub district, and all other uses allowed in the underlying district(s) as permitted uses and special exception uses are prohibited:
- (1) Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking;
  - (2) Motorized and non-motorized vehicular traffic on existing roads, trails and rails;
  - (3) Hiking trails, inactive trails, bridle paths, pedestrian trails and walkways;
  - (4) Forest management activities, except for timber harvesting and land management roads;
  - (5) Timber harvesting;
  - (6) Fire prevention activities;
  - (7) Wildlife management activities;
  - (8) Soil and water conservation activities;
  - (9) Surveying and resource analysis;
  - (10) Emergency operations;
  - (11) Agriculture;
  - (12) Non-residential facilities for educational, scientific or nature interpretation purposes;
  - (13) Aquaculture;
  - (14) Buildings accessory to existing residential buildings and to uses permitted herein;
  - (15) Permanent and temporary piers, docks, wharves, bridges and other structures and uses extending over or below the normal high-water line or within a wetland:

- (16) Conversion of seasonal residences to year-round residences where allowed by State statute and the Maine State Plumbing Code;
- (17) Private sewage disposal systems for allowed uses;
- (18) Public and private recreational areas involving minimal structural development;
- (19) Road construction;
- (20) Public utility structures;
- (21) Clearing of vegetation;
- (22) Filling and earth-moving activities; and
- (23) Signs

9) Land Use Performance Standards - All land use activities within the Shoreland Overlay District shall conform to the following performance standards, if applicable. When there is any conflict between these performance standards and the other standards of this Land Use and Development Code, the more restrictive standards shall control.

a) Minimum Lot Standards

- (1) No dwelling unit(s) or other building shall be erected except on a lot which meets the minimum lot size and other dimensional requirements of the underlying district established under Chapter 1, provided, however, that if the underlying district does not specify a minimum lot area, the minimum lot area for residential uses and public and private recreational facilities shall be 40,000 square feet and that if the underlying district does not specify a maximum building height, the maximum building height shall be thirty-five (35) feet, as measured from the mean grade prior to construction at the downhill side of the structure and the highest point of the structure, excluding chimneys, antennas, and similar appurtenances that have no floor area. Minimum shore frontage for residential uses and public and private recreational facilities shall be 200 feet and for all other non-residential uses shall be 300 feet.
- (2) Land below the normal high-water line of a water body or upland edge of a wetland shall not be included toward calculating minimum lot area.
- (3) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

b) Principal and Accessory Building/Structures

- (1) All new principal and accessory buildings and structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond or a river flowing to a great pond and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland. In the Resource Protection District the setback requirement shall be two hundred fifty (250) feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district, which shall be subject to the setback requirements set forth above. The water body or wetland setback provision shall neither apply to buildings and structures which require direct access to the water as an operational necessity, such as piers and docks, nor to other functionally water-dependent uses.
- (2) The lowest floor elevation of openings of all buildings and structures including basements shall be elevated at least three (3) feet above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils.
- (3) The total footprint area of all buildings/structures, parking lots and other non-vegetated surfaces, within the shore land zone shall not exceed twenty percent (20%) of the lot or a portion thereof located within the shoreland zone, including land area previously developed.
- (4) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a Shoreland Zoning approval from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided; that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

c) Piers, Docks, Wharves, Bridges and Other Structures and Bases Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland

- (1) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- (2) The location shall not reasonably interfere with existing developed or natural beach areas.
- (3) The facility shall be located so as to minimize adverse effects on fisheries.
- (4) The facility shall be no larger in dimension than necessary to carry on the activity. A temporary pier, dock or wharf shall not be wider than six (6) feet for non-commercial uses.

- (5) No new building or structure shall be built on, over or abutting a pier, wharf, dock or other building extending beyond the normal high-water line of a water body or within a wetland unless the building or

structure requires direct access to the water body or wetland as an operational necessity.

- (6) New permanent piers and docks shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible and the Department of Environmental Protection has issued a permit pursuant to the Natural Resources Protection Act.
- (7) No existing building or structure built on, over or abutting a pier, wharf, dock or other building extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units.
- (8) Structures built on, over or abutting a pier, wharf, dock or other building extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

d) Roads and Driveways - The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

- (1) Roads and driveways shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond or a river flowing to a great pond and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than twenty percent (20%) the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five percent (5%) increase in slope above twenty percent (20%).

This subsection shall neither apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of subsection b)1) except for that portion of the road or driveway necessary for direct access to the structure.

- (2) Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a water body, tributary stream or wetland.



- (3) New roads and driveways are prohibited in a Resource Protection Sub district except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be or as approved by the Planning Board in a Resource Protection Sub district upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
- (4) Road and driveway embankments shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Subparagraph m).
- (5) Road and driveway grades shall be no greater than ten percent (10%) except for segments of less than two hundred (200) feet.
- (6) Where underground storm water drainage is not required, in order to prevent road and driveway surface drainage from directly entering water bodies, roads and driveways shall be designed, constructed and maintained to empty onto an unscarified buffer strip at least fifty (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- (7) Where underground storm water drainage is not required, ditch relief (crossing drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the road or ditches gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:
  - (a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

<u>Road Grade (percent)</u>	<u>Spacing (feet)</u>
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

- (b) Drainage dips may be used in place of ditch relief culverts only where the grade is ten percent (10%) or less.
- (c) On sections having slopes greater than ten percent (10%) ditch relief culverts shall be placed at approximately a thirty (30) degree angle down slope from a line perpendicular to the centerline of the road or driveway.

- (d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
  - (8) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.
- e) Signs
  - (1) The provisions of Chapter 2, Section 2-3 shall govern the use of signs in the Shoreland Overlay District.
- f) Storm Water Runoff
  - (1) All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters.
  - (2) Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.
- g) Septic Waste Disposal
  - (1) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules) and the following requirements: a. clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not be located within 75 feet, horizontal distance of the normal high-water line of a water body or the upland edge of a wetland and b. no holding tank shall be allowed for a first-time residential use in the shoreland zone.
- h) Essential Services
  - (1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
  - (2) The installation of essential services, other than road-side distribution lines, is not permitted in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
  - (3) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

i) Gravel Pits

- (1) No part of any gravel pit operation, including but not limited to drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of a great pond or a river flowing to a great pond, or within seventy-five (75) feet of the normal high water line of any other water body, tributary stream or upland edge of a wetland.

j) Agriculture

- (1) All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2002, and the Nutrient Management Law (7 M.R.S.A. Sections 4201-4209).
- (2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond or a river flowing to a great pond, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- (3) Agricultural activities involving tilling of soil greater than forty thousand (40,000) square feet in surface area within the Shoreland Overlay District shall require a Conservation Plan to be filed with the Planning Board. Nonconformance with the provisions of said plan shall be considered to be a violation of this subparagraph.
- (4) There shall be no new agricultural activities, including tilling of soil greater than forty thousand (40,000) square feet in area where some or all of such tilling is of soil within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond, within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams, and wetlands. Operations in existence on the effective date of this subsection and not in conformance with this provision may be maintained providing that such tilling is conducted in accordance with a Conservation Plan.
- (5) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond, within seventy-five (75) feet, horizontal distance of other water bodies, nor within twenty-five (25) feet, horizontal distance, of tributary streams, and wetlands. Livestock grazing associated with on-going farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.
  - (a) Subparagraph (j) (5) above notwithstanding, the establishment of new livestock grazing areas may be allowed within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond or a river flowing to great pond, within seventy-five (75) feet, horizontal distance, of other water bodies or within twenty-five (25) feet, horizontal distance, of tributary streams and wetlands as an exception where the Planning Board finds:

- (1) that the applicant has made a clear showing, including the submission of a Conservation Plan, that such establishment of a new livestock grazing area will not have an undue adverse impact upon the shoreland area, and (2) that such an exception meets the shoreland zoning approval standards set out in paragraph 10 of this subsection, and where such livestock grazing is conducted in accordance with that Conservation Plan.

k) Timber Harvesting

- (1) Within the strip of land extending 75 feet inland from the normal high-water line in a shoreland area zoned Resource Protection abutting a great pond there shall be no timber harvesting, except to remove safety hazards.
- (2) Except in areas as described in subparagraph k) (1) above, timber harvesting shall conform with the following provisions:
- (a) Selective cutting of no more than forty percent (40%) of the total volume of trees four (4) inches dbh or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:
- i. Within one hundred (100) feet, horizontal distance of the normal high-water line of a great pond or a river flowing to a great pond and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clear cut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
- ii. At distances greater than one hundred (100) feet, horizontal distance, of a great pond or a river flowing to a great pond and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clear cut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5,000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clear cut openings shall be included in the calculation of total volume removal. For the purposes of these standards volume may be considered to be equivalent to basal area.
- (b) Subparagraph k) (2) (a) above notwithstanding, timber harvesting operations exceeding the forty percent (40%) limitation upon selective cutting may be allowed as an exception where the Planning Board finds: (1) that the applicant has made a clear showing, including the submission of a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management, and (2) that such

an exception meets the shoreland zoning approval standards set out in paragraph 10 of this subsection.

- (c) No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high water line of a water body or tributary stream shall be removed.
- (d) Timber harvesting equipment shall not use stream channels as travel routes except when:
  - i. Surface waters are frozen; and
  - ii. The activity will not result in any ground disturbances.
- (e) All crossing of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- (f) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- (g) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten percent (10%) shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten percent (10%) increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a bank face shall be closer than twenty-five (25) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.

I) Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

- (1) Within a Resource Protection Sub district abutting a great pond, there shall be no cutting of vegetation within the strip of land extending seventy-five (75) feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards. Elsewhere, in any Resource Protection Sub district, the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

(2) Except in areas as described in subparagraph I) (1), above, and except to allow for the development of permitted uses, within a strip of land extending one hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond or a river flowing to a great pond and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip or vegetation shall be preserved as follows:

(a) There shall be no cleared opening greater than two hundred fifty (250) square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is permitted provided that a cleared line of sight to the water through the buffer strip is not created.

(b) Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other natural vegetation is maintained. For the purposes of this section a "well-distributed stand of trees" adjacent to a great pond or river, shall be defined as maintaining a rating score of 24 or more in each twenty-five (25) foot by 50 foot rectangular (1250 square feet) area as determined by the following rating system:

Diameter of Tree 4 1/2 feet  
Above Ground Level (inches) Points

2 - 4 inches	1
4 - 8 inches	2
8 - 12 inches	4
12 in. or greater	8

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimal rating score of sixteen (16) per 25-foot by 50-foot rectangular area.

The following shall govern in applying this point system:

- i. The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer.
- ii. Each successive plot must be adjacent to, but not overlap a previous plot.
- iii. Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this section.
- iv. Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this section.
- v. Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area

may consist of trees greater than 12 inches in diameter.

For the purposes of this section "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one-half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five (5) saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot. Notwithstanding the above provisions, no more than forty percent (40%) of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

- (c) in order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered or removed, except to provide for a footpath or other permitted uses as described in subparagraphs (2) and (2) (a) above. The pruning of tree branches is allowed on the bottom 1/3 of the tree.
- (d) In order to maintain a buffer strip of vegetation when the removal of storm-damaged, diseased, unsafe or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

The provisions contained in paragraph (2) above shall not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

- (3) The clearing of trees in conjunction with the development of permitted uses is governed by the timber harvesting provisions of subparagraph k).

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate twenty-five percent (25%) of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared.

- (4) Cleared openings legally in existence on the effective date of this Subsection may be maintained, but shall not be enlarged, except as permitted by this Subsection.
- (5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

m) Erosion and Sedimentation Control

- (1) All activities which involve filling, grading, excavation or other similar activities shall comply with the erosion performance standards contained in Chapter 1, Section 1-1.B.

n) Soils

- (1) Soil suitability shall be governed by the provisions contained in Chapter 2, Section 2-1(A).

o) Water Quality

- (1) No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances will impair designated uses or the water classification of the water body, tributary stream or wetland.

p) Archeological Sites

- (1) Any proposed land use activity involving structural development or soil disturbance or on adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

10) Administration

- a) Shoreland Zoning Approval Required - After the effective date of this Subsection no person shall: engage in any activity or land use regulated by this Land Use and Development Code and located in the Shoreland Overlay District without first obtaining shoreland zoning approval from the Planning Board for any permanent pier, dock, wharf or other structure or use extending over or below the normal high-water line or within a wetland for any activity or land use requiring Planned Unit Development review under Chapter 1, Subdivision Review under Chapter 3, or Site Plan review under Chapter 4, or for any exception to the livestock grazing provisions of Subparagraph j) 5) or to the timber harvesting provisions of subparagraph k) (2), or from the Code Enforcement Officer for any other activity or land use. Where any approval is required for work in the Shoreland Overlay District, a copy of the approval shall be maintained on the site while the work authorized by the permit is being performed.

b) Approval Standards

- (1) The Planning Board shall not approve a proposed permanent pier, dock, wharf or other structure or use extending over or below the normal high-water line or within a wetland or an application for planned unit development, subdivision or site plan proposed to be located in whole or in part within the Shoreland Overlay District or for any exception to the livestock grazing provisions of subparagraph j) 5) or to the timber harvesting provisions of subparagraph k) (2), nor shall the Code Enforcement Officer issue a building permit or other land use permit under this Chapter for any proposed land use that is not subject to the above Planning Board approvals and that is proposed to be located in whole or in part within the Shoreland Overlay District unless the Planning Board or the Code Enforcement Officer also makes a positive finding, with or without conditions and based on the information presented, that the proposed use:
  - (a) Will maintain safe and healthful conditions;
  - (b) Will not result in water pollution, erosion, or sedimentation to surface waters;



- (c) Will adequately provide for the disposal of all water;
  - (d) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
  - (e) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
  - (f) Will protect archaeological and historic resources as designated in the Comprehensive Plan;
  - (g) Will mitigate flood hazards to development; and
  - (h) Is in conformance with this Subsection.
- (2) If Shoreland Zoning approval is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted involving a building if the building would be located in an unapproved subdivision or would violate any other local subsection regulation or any State law which the municipality is responsible for enforcing.
  - (3) The applicant shall have the burden of proving that the proposed land use or activity in the Shoreland Overlay District is in conformity with the purposes and provisions of this Subsection.

c) Expiration of Approval

- (1) The Shoreland Zoning approval shall remain valid only for the duration of the underlying building permit, planned unit development approval, subdivision approval, or site plan approval or other land use approval or permit with which it is issued.

d) Permit Fees

To help recover costs incurred by the Town in the review, administration, site inspection, and public notice associated with the shoreland zoning permit application, the following fees and deposit in such amount(s) and for such purpose(s) as the Town Council may from time to time establish by Council order shall be paid by the applicant to the Town of Gorham at the time of filing the permit application:

- (1) Publishing and public notice fee;
- (2) Application fee; and
- (3) Independent consulting and peer review escrow account to be established with the Town in accordance with Chapter 2, Section 2-9 of this Code.

All fees shall be non-refundable except unexpended escrow deposits, which shall be refunded in accordance with Chapter 2, Section 2-9, Subsection B of this Code. If a shoreland zoning permit application is also subject to subdivision review, site plan or municipal review under any other ordinance, the applicant shall pay only the larger review fee amount exclusive of escrow deposit.

11) Enforcement

- a) Nuisances - Any violation of this Article shall be deemed to be a nuisance.
- b) Code Enforcement Officer
  - (1) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Article. If the Code Enforcement Officer shall find that any provision of this Article is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
  - (2) The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to shoreland zoning approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Article.
  - (3) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, shoreland zoning permits granted or denied, variances granted or denied, revocation actions, revocation of shoreland zoning approvals, appeals, court actions, violations investigated, violations found, and fees collected. On an annual basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.
- c) Fines - Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Article shall be penalized in accordance with 30-A M.R.S.A., Section 4452 as amended from time to time, and each day that a violation of this Article continues shall be deemed a separate violation of this Article.
- d) Installation of Public Utility Service - No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the shoreland area unless written authorization attesting to the validity and currency of all local permits and approval required under this or any previous Article, has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation has been completed.

F. WASTE WATER POLLUTION

- 1) Waste water to be discharged into municipal sewers, should they be available, shall be in such quantities and/or of such quality as to be compatible with standards established by the municipality.
- 2) To meet those standards, the Town may require that such wastes shall undergo pretreatment or full treatment at the site in order to render them acceptable for municipal treatment processes.
- 3) Pretreatment includes, but is not limited to screening, grinding, sedimentation, ph adjustment, surface skimming, chemical oxidation and reduction and dilution.

4) The disposal of waste water by means other than a municipal sewerage system must comply with the laws of the State of Maine and the Town concerning water pollution. Wash water or other process water carrying stone dust, stone particles, silt or other mineral matter will not be accepted into a municipal system. As condition of service, representatives of the Town and the State Department of Environmental Protection shall be permitted to enter onto the premises for the purpose of gauging, sampling and testing any waste water streams which may enter into water courses.

G. AIR POLLUTION

- 1) Dust, dirt and fly ash shall not exceed 0.3 grains per cubic foot of flue gas at stack temperature of 500 degrees Fahrenheit and shall in no manner be destructive, unhealthful, hazardous, nor shall visibility be impaired by the emission of haze which unduly impedes vision with an apparent opaqueness equivalent to No. 1 of the Ringlemann Chart as measured at any boundary line, using the procedures of the American Society of Testing Materials. Representatives of the Town or the State Department of Environmental Protection may enter onto premises for the purpose of testing any and all sources of potential air pollution.
- 2) The limitations of paragraph 1 shall not apply to emissions resulting from soot blowing on any heat-transfer operation regardless of fuel source provided such emissions do not exceed an aggregate duration of more than one hour in any 24 hour period.
- 3) Any activity emitting toxic or odoriferous substances must submit detailed plans to minimize such emissions to the Code Enforcement Officer before a permit is granted. Limitations of toxicity and odors of these substances shall be as set forth in the State of Maine.
- 4) All air pollution control shall comply with minimum State requirements and detailed plans shall be submitted to the Code Enforcement Officer for approval, before a permit is granted.

H. NOISE ABATEMENT

- 1) Noise is required to be muffled so as not to be objectionable to surrounding land uses. Noise may be equal to but not exceed an hourly A weighted equivalent sound level of 75 decibels (dBA) as defined and measured generally in accordance with ANSI standards. This standard shall apply at any boundary line. This section shall not apply to mineral exploration, excavation or gravel pits that are subject to the provisions of Chapter 2, Section 2-1 C(5)(a)(3) of this Code. The 75 decibel (dBA) limit applies at the lot line for all lots in Gorham, except as noted below.

After April 7, 2009 developments subject to site plan review are required to meet Chapter 4, Site Plan Review, Section 4-9, Approval Criteria and Standards, Subsection T, - Noise Abatement. Where there is a conflict between those noise requirements and the standards of this section, the more restrictive requirements shall govern.

- 2) A use shall not be subject to the noise limits established by this section at any property line where the property owner and the abutting property owner have agreed in writing that those noise limits will not apply at their shared property line or that the noise limits may exceed the 75 decibel limit by an amount established in writing. Any such agreement concerning the noise limits at the shared property line shall be set forth in reciprocal deeds between the property owners and shall be recorded in the Cumberland County Registry of Deeds.
- 3) The following activities are excluded from the sound level limits.

- a) Construction and demolition work 7 am to 7 pm. With prior approval from the Town of Gorham Code Enforcement Officer, this exemption can be extended beyond daytime hours to accommodate certain activities such as major concrete pours.
- b) Agricultural activity and daytime timber harvesting.
- c) Landscaping, lawn mowing and related grounds keeping.
- d) Snow removal and related winter maintenance such as sanding.
- e) Operation and daytime (7 a.m. to 7 p.m.) testing of emergency equipment such as fire alarms, backup generators, and pressure relief valves.
- f) Registered and inspected motorized vehicles traveling on public roads and when entering and departing from a parking or loading area and which are moving, starting or stopping. This excludes operation of vehicles and on-board equipment during loading, unloading, processing, mixing or related operations. Examples of non-exempt vehicle operations include refrigeration units on parked vehicles, cement mixers, and on-board loading pumps.
- g) Safety and warning signals required by law, rule or regulation.
- h) Cultural and sporting events with proper approval from the Town of Gorham.
- i) At lot lines where the abutting property owner has granted a noise easement to the applicant, such an easement shall state the abutting property owner agrees that the sound level limits at the shared property line can be exceeded a specified amount but not by more than 10 dBA above the applicable sound level limits. Any agreement or easement concerning noise levels shall be included in the reciprocal deeds, and shall be only for the specific noise, land use and term covered by the noise easement and shall have no effect on the sound level limits applicable to other properties.
- j) Maintenance, startups, shutdowns and other routine activities are not exempt from these sound level limits. Exceptions to this restriction can be granted by prior approval of the Code Enforcement Officer according to the following criteria:
  - 1) Frequency, no more than once every three months
  - 2) Permitted sound level, no more than 85 dBA for brief limited, intermittent time periods totaling no more than one hour for the duration of maintenance,
  - 3) Maintenance exceeding normal sound limits, as described in item 2 to occur only between the hours of 7AM and 5PM
- k) Well drilling work 7 AM to 7 PM. With prior approval from the Town of Gorham Police Department, this exemption can be extended beyond daytime hours to accommodate well drilling activities during abnormally dry times.

#### I. BUFFER AREAS

- 1) Any non-residential yard space abutting a residential area shall be maintained as a buffer strip by the developer. Such buffer area shall be for the purpose of eliminating any adverse effects upon the environmental or aesthetic qualities of abutting properties or any type of nuisance affecting the health, safety, welfare and property values of the residents of Gorham.
- 2) Natural features shall be maintained wherever possible to provide a break between the proposed development and abutting properties.
- 3) When natural features such as topography, gullies, stands of trees, shrubbery, rock outcrops do not exist or are insufficient to provide a buffer, the developer shall landscape or otherwise provide fencing or screening.

- 4) Fencing, screening or natural features, or combination thereof, shall be sufficient to shield from the view of abutting residential properties, and otherwise prevent any kind of nuisance: all loading and unloading operations, storage areas, commercial vehicle parking, waste disposal and collection areas.
- 5) Fencing and screening shall be durable and properly maintained at all times by the owner.
- 6) Fencing and screening shall be so located within the developer's property line to allow access for maintenance on both sides without intruding upon abutting properties.
- 7) All buffer areas shall be maintained in a tidy and sanitary condition by the owner.

J. INVASIVE TERRESTRIAL PLANTS

- 1) No person shall import, export, buy, sell, or intentionally propagate for sale or distribution any living and viable portion of any plant species, which includes all of their cultivars, varieties and hybrids, listed under 01-01001 Maine Department of Agriculture, Conservation and Forestry, Division of Animal and Plant Health, Chapter 273.
- 2) The use of any invasive plant species, which includes all of their cultivars, varieties and hybrids identified under 01-1001 Maine Department of Agriculture, Conservation and Forestry, Division of Animal and Plant Health, Chapter 273 shall be restricted from landscaping or buffering purposes for any property located within the Town. ``
- 3) The transplanting of any invasive plant species, which includes all of their cultivars, varieties and hybrids identified under 01-1001 Maine Department of Agriculture, Conservation and Forestry, Division of Animal and Plant Health, Chapter 273 within the Town or across Town boundaries is not permitted.
- 4) The disposal of any invasive plant species, which includes all of their cultivars, varieties and hybrids identified under 01-1001 Maine Department of Agriculture, Conservation and Forestry, Division of Animal and Plant Health, Chapter 273 shall be such as to not promote the dispersal of the invasive species to other lots, properties and areas within the Town or outside of Town boundaries.

## SECTION 2-2 - PARKING, LOADING AND TRAFFIC

### A. OFF-STREET PARKING STANDARDS

- 1) Off-street parking, in addition to being a permitted use, shall be considered as an accessory use when required or provided to serve conforming uses located in any district.
- 2) The following minimum off-street parking and loading requirements shall be provided and maintained in case of new construction, alterations and changes of use. Such parking may be provided in the open air in spaces each nine feet wide by eighteen feet long, or in garages. All spaces shall be accessible from lanes of adequate size and location.

Bed and Breakfast and Bed and Breakfast Establishments	1 parking space per guest room and 2 parking spaces for the residential unit, plus 1 parking space for each additional staff person employed
Bed and Breakfast Establishments with Public Dining as an Accessory Use and Inns	1 on-site parking space per guest room and 2 parking spaces for the residential unit, plus 1 parking space for each additional staff person employed; and 1 parking space for each 2 licensed restaurant seats in the public dining facility. Legal on-street parking spaces located along the lot frontage adjacent to a public right-of-way may be counted as off-street parking
Bowling Alley	4 parking spaces for each bowling lane.
Dog Kennel (5) boarded dogs.	One (1) parking stall shall be provided for every five
Drive-in restaurants, snack bars:	Minimum 25 parking spaces plus 4 square feet of parking for each square foot of floor space in excess of 2,500 square feet.
Dwellings	2 parking spaces per each dwelling unit.
Elementary Schools	1 parking space for each adult employee plus 3 parking spaces.
Hospitals, sanatoria, nursing homes	1 parking space for each 500 square feet or major fraction thereof of floor area, exclusive of basement.
Hotels	1 parking space for each 2 guest rooms.
Industry, manufacturing and business	1 parking space for each 1,000 square feet of floor area, or major fraction thereof, for that part of every business, manufacturing and industrial building not catering to retail trade and with floor area over 3,000 square feet.
Junior High Schools	1 parking space for each adult employee plus 6 parking spaces.

Medical and Dental Offices:	1 parking space for each 250 square feet of gross floor area plus 1 space for each examination, treatment or consultation room.
Mixed-Use Developments	<p>Residential: studio/1 bedroom – 1 parking space Units with more bedrooms - .5 parking space per extra bedroom*</p> <p>*For projects within .25 miles, or 1,340' of a public transit stop the .5 parking space per extra bedroom may be waived by the Planning Board if the Planning Board finds that the development will benefit from the reduced demand of onsite parking due to the transit stop.</p> <p>Commercial: 1 unit per 250 sq. ft. of gross floor area</p>
Mobile Vending Units	The operator of the mobile vending unit shall have available, and under written agreement, at least three off-street parking spaces not including the space for the mobile vending unit. On-street parking spaces may be utilized to substitute two of the required off-street parking spaces if the on-street parking is located immediately in front of the lot. The operator must have at least one off-street parking space for any vehicle belonging to an employee working. Mobile vending units are prohibited from locating in parking spaces in the Town's roads rights-of-ways.
Mobile Vending Units With Exterior Seating	In addition to the parking spaces required under mobile vending units an additional parking space is required for each two seats available for dining.
Mortuary Chapels	5 parking spaces for each chapel.
Motels, tourist homes, rooming houses, fraternities	1 parking space for each sleeping room
Nursery Schools	1 parking space for each 2 rooms used as nursery rooms.
Offices, professional and public buildings:	1 parking space for each 250 square feet of gross floor area.
Retail Stores	1 parking space for each 200 square feet of gross floor area.
Restaurants:	1 parking space for each 100 square feet, or major fraction thereof, of floor area not used for storage or food preparation.
Senior High Schools	1 parking space for each adult employee plus 15 parking spaces for each 100 students or major fraction thereof of total enrollment.
Theaters, auditoria, churches, arenas	1 parking space for each 4 seats for each 100 square feet or major fraction thereof of assemblage space if no fixed seats.

- 3) Required off-street parking in all districts shall be located on the same lot as the principal building or use except that where it cannot reasonably be provided on the same lot, the Planning Board may authorize residential off-street parking to be located on another lot within 300 feet of the residential uses served as measured along lines of public access if safe and convenient. Such parking areas shall be held under the same ownership or lease as the residential uses served and evidence of such control or lease shall be required.
- 4) Required off-street parking in all business and industrial zones shall be located on the same lot with the principal building or use, or within 100 feet measured along lines of public access, except that where off-street parking cannot be provided within these limits, the Planning Board may permit such off-street parking to be located a reasonable distance from the principal building or use, measured along lines of public access if safe and convenient. Such parking areas shall be held under the same ownership or lease, and evidence of such control or lease shall be required. Such lots shall be located within business or industrial districts.
- 5) Where off-street parking for more than six vehicles is required or provided on a lot in a Residence Zone and vehicles are to be or may be parked within the area otherwise required to be kept open and unoccupied for front, side, and rear yards in the zone in which such parking is located, the following requirements shall be met:
  - a) A continuous guard curb, rectangular in cross section, at least six inches in height and permanently anchored, shall be provided and maintained at least five feet from the street or lot line between such off-street parking and that part of the street or lot line involved; or a continuous bumper guard of adequate strength, the top of which shall be at least 20 inches in height, shall be provided and maintained between such off-street parking and that part of the street or lot line involved so that bumpers of vehicles cannot project beyond its face toward the street or line involved, either above or below the impact surface.
  - b) Where such off-street parking shall abut a lot in residential use or an unoccupied lot which is located in a Residence Zone, a landscaped buffer and/or a fence, not less than 48 inches in height, shall be provided and maintained between such off-street parking and that part of the lot line involved.
- 6) Where off-street parking for more than six vehicles is required or provided on a lot in any Business Zone, the following requirements shall be met:
  - a) Where vehicles are to be or may be parked within ten feet of any street line, a continuous guard curb, rectangular in cross section, at least six inches in height and permanently anchored, shall be provided and maintained at least five feet from the street line between such off-street parking and that part of the street line involved; or a continuous bumper guard of adequate strength, the top of which shall be at least 20 inches in height, shall be provided and maintained between such off-street parking and that part of the street line involved so that the bumpers of vehicles cannot project beyond its face toward the street line involved, either above or below the impact surface.
  - b) Where such off-street parking shall abut a lot in a Residence Zone or a lot in residential use, a landscaped buffer and/or a fence, not less than 48 inches in height, shall be provided and maintained between such off-street parking and that part of the lot line involved.
- 7) Where off-street parking is required or provided, the following construction requirements shall apply:
  - a) Appropriate driveways from streets or alleys, as well as maneuvering areas,



shall be provided. Location and width of approaches over public sidewalks shall be approved by the Building Inspector. When access to parking areas is available from more than one street, the location of points of ingress and egress shall have the approval of the Planning Board.

- b) The surface of driveways, maneuvering areas, and parking areas shall be uniformly graded with a sub grade consisting of well-compacted gravel or equivalent materials at least six inches in depth. Except as provided in subsection c) below, for commercial, industrial, and institutional uses and apartment buildings, the drives, maneuvering areas and parking areas shall be covered with two inches of bituminous concrete properly prepared and laid in two courses of one inch each in accordance with specifications prepared by the Public Works Department. All other installations shall have a wearing surface equivalent in qualities of compaction and durability to fine gravel.
  - c) For commercial, industrial and institutional uses (excluding retail or service businesses) that will generate an estimated average of thirty-five (35) vehicle trips or less per day or for Rural Entrepreneurial Uses that meet the Performance Standards of Chapter 2, Section 2-7, Subsection E. 2. In the Suburban Residential District or of Chapter 2, Section 2-8, Subsection E. 2. In the Rural District, parking areas shall be constructed with a suitably durable material (including gravel) that minimizes dust and is appropriate for the type of land use activity. Surfacing, grading and drainage shall be required to facilitate groundwater recharge by minimizing impermeable surface and stormwater run-off. Parking lots constructed in conformance with this provision shall have a paved apron 30 feet in length commencing at the existing edge of pavement on the adjacent public road.
  - d) A system of surface drainage shall be provided in such a way that the water run-off shall not run over or across any public sidewalk or street.
  - e) Where artificial lighting is provided, it shall be shaded or screened so that no light source shall be visible from outside the area and its access driveways.
- 8) The Planning Board may reduce the off-street requirements of 2) in the following situations:
- a) Where legal on-street parking is located within two hundred (200) feet of a non-residential use and the Board determines that this parking will be available to meet some or all of the parking demand.
  - b) Where publicly supplied off-street parking is located within two hundred (200) feet of a non-residential use and the Board determines that this parking will be safe, convenient, and available to meet some or all of the parking demand.
  - c) Where it is clearly demonstrated that the parking demand will be lower than that established by this section and that the reduction will not detract from neighborhood property values, inconvenience the public, or increase congestion on adjacent streets.
  - d) For the reuse or redevelopment of a parcel in the Village Centers or Urban Commercial Districts if the Planning Board determines that the new use will not significantly increase the demand for parking compared to the former use.
  - e) For uses in the Village Centers or Urban Commercial Districts if the Planning Board determines that the demand for parking will be less than the standard because some customers/users will walk or take alternative transportation to the site.

In these cases, the owner of the property seeking the reduction or his/her representative shall be responsible for providing documentation to the Planning Board substantiating the reduced parking demand or alternative supply.

- 9) The Planning Board may approve the joint use of a parking facility by two or more principal buildings or uses where it is clearly demonstrated that said parking facility will substantially meet the intent of the requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments.
- 10) No portion of any lot which is used to satisfy the front yard requirements of this ordinance shall be used for parking for any commercial or industrial use, except that any paved area existing in a front yard as of March 2, 2011 may be used for parking for a new or existing Bed and Breakfast establishment with or without public dining facilities, provided that the Planning Board reviews such parking and determines that the buffering and screening for the parking meets the requirements set forth in Chapter 2, Section 2-1(l) of this Ordinance.

**B. OFF-STREET LOADING STANDARDS**

- 1) In those districts where off-street loading is required, the following minimum off-street loading bay or loading berths shall be provided and maintained in the case of new construction, alterations, and changes of use:

Office Buildings and Hotels with a gross floor area of more than 100,000 square feet: 1 Bay.

Retail, wholesale and industrial operations with a gross floor area of more than 5,000 square feet:

5,001 to 40,000 sq. ft.	1 Bay
40,001 to 100,000 sq. ft.	2 Bays
100,001 to 160,000 sq. ft.	3 Bays
160,001 to 240,000 sq. ft.	4 Bays
240,001 to 320,000 sq. ft.	5 Bays
320,001 to 400,000 sq. ft.	6 Bays
Each 90,000 square feet over 400,000	1 additional Bay.

- 2) Each loading bay shall have minimum dimensions of 70 feet by 14 feet and may be located either within a building or outside and adjoining an opening in the building. Every part of such loading bay shall be located completely off the street. In case trucks, trailers, or other motor vehicles larger than the dimensions of the minimum loading bay habitually serve the building in question, additional space shall be provided so that such vehicle shall park or stand completely off the street.
- 3) The provisions of this section for off-street loading shall not be construed as prohibiting incidental curbside business deliveries, dispatches, or services provided that they are in compliance with all applicable State and local traffic regulations.

**C. CORNER CLEARANCES**

For purposes of traffic safety in all Districts, no building or structure may be erected and no vegetation other than shade trees may be maintained above a height of three feet above the plane through the curb grades of intersecting streets within a triangle two sides of which are the edges of the public ways for twenty feet measured from their point of intersection or in the case of rounded street corners, the point of intersection of their tangents.

**D. FUTURE ROADS**

When the Town or State has identified the need for a new road to serve existing or future

vehicular movement and the location of the proposed right-of-way has been established and can be located on the ground, development which encroaches on the proposed right-of-way shall not be permitted unless:

- a) The area of the right-of-way is reserved for future road construction; or
- b) The Town is offered the opportunity to purchase the right-of-way at its fair market value as determined by an independent professional appraiser and declines to purchase the right-of-way. The offer to sell must provide the Town with at least 180 days to accept or reject the offer.

## SECTION 2-3 – SIGNS

### A. APPLICABILITY

The provisions of this section apply to all signs placed or erected on private property, signs located on or overhanging public property that relate to adjacent private property, and signs on public property that relate to a governmental use of that property unless specifically exempted by the provisions of this section. Signs and other advertising displays not specifically allowed by this section are hereby prohibited.

For the purposes of this section, occupant means any distinct use that occupies a separate and identifiable space within a building. Any activity that involves at least two of the following characteristics shall be considered to be an occupant for the purposes of these provisions:

1. Separate cash registers or checkout/payment/service facilities that serve the use exclusively
2. Employees that work exclusively for the use
3. Occupancy of an area that is physically separated by walls, door, and hallways from other occupants
4. A lease on or ownership of an identifiable space
5. A separate entrance and identifiable building frontage associated with the occupant

When a property is occupied by a single occupant, the sign provisions for a single-occupant property shall apply. When a property has more than one occupant, the sign provisions for a multi-occupant property shall apply.

### B. COMPUTATION OF SIGN AREA AND HEIGHT

The following principles shall be used to determine the area and/or height of signs:

1. Area of Wall Signs: The area of a wall sign that is painted onto a building or structure or in which the letters or elements of the sign are attached directly to a building or structure shall be the area of the smallest square, rectangle, triangle, or circle that will encompass the extreme limits of the writing, representation, emblem or other display, together with any material or color that forms an integral part of the background of the display or that is used to differentiate the sign from the building or structure on which it is placed. The area of a wall sign does not include any border or framing around the display area provided that the area of the border or framing is less than fifty percent (50%) of the area of the sign and does not contain any graphics, logos, or other advertising features. In general, the area of a wall sign shall include the entire graphic representation as a single sign unless there are clearly discrete and separate elements such as a name and logo/graphic in which case the sign area of each may be calculated separately. In this case, each area that is calculated separately shall be considered to be a sign with respect to limits on the number of signs on the property.
2. Area of All Other Signs: The area of all other signs shall be the area of the sign face but not including any supporting framework or bracing or any base or pedestal for supporting the sign face that does not contain any advertising features, lettering, logos, or distinctive color scheme associated with the subject of the sign as a brand identification. If the sign is irregularly shaped, contains openings in the sign face, or is a “constructed” sign made up of separate, attached pieces or components, the area of the sign shall be the area of the smallest square, rectangle, triangle, or circle that will encompass the extreme limits of the writing, representation, emblem or other display.

3. Area of Double Faced or Multi-Faceted Signs: The area of a double faced or multi-faceted sign shall be the area of one sign face provided that the other sign faces are identical, cannot be viewed from any point at the same time, and are part of the same structure.
4. Height of Sign: The intention of this limitation is to allow signs that can be seen from the street(s) from which the property has vehicle access but to prevent signs that are designed or located so as to be able to be seen from streets from which the property does not have vehicle access. The height of a freestanding sign shall be the distance from the normal grade of the site under the sign to the highest point on the sign face. Normal grade means the established grade after construction of the portion of the site where the sign will be located but shall not include any mounding, berming, or base done for the location of the sign.
5. Address Exclusion/Inclusion. The inclusion of the address of the property as part of a sign is encouraged. If a sign includes the address of the property (221 Overland Street), the address area is excluded from the calculation of the area of the sign unless the address is a part of the occupant's or project's name (i.e. 14 Main Restaurant or 400 Main Plaza).

#### C. EXEMPT SIGNS

The provisions of this section shall not apply to the following types of non-illuminated signs: public safety and information, political, traffic control and directional that contain no advertising, no trespassing, real estate development or site signs during the period of construction; project identification signs with the name of a municipal or community building or facility or residential subdivision or development that is located at the entrance to the site; real estate sale and rental signs except as limited in this section, building markers, signs required by law or court order, gasoline price signs attached to or part of a pump for the dispensing of gasoline or other fuels having less than one square foot of sign area, signs displaying only the address of the property, and temporary signs in conjunction with a yard sale or community or other special event with a limited duration.

#### D. PROHIBITED SIGNS, DISPLAYS, AND RELATED MATERIALS

1. The following are prohibited anywhere in the Town unless specifically allowed under Subsections E or F:
  - a) Signs with Moving or Rotating Pieces or Parts: Any sign that has any moving or rotating pieces or parts that creates the appearance of motion. If there is uncertainty as to whether this restriction applies to a specific sign, the Planning Board shall make the determination. Readerboard signs including electronic message boards with interchangeable or moveable lettering that comply with the performance standards of Subsection E. are excepted from this limitation. This restriction also does not apply to clocks, thermometers, barber poles, and similar displays that change in response to the information being monitored provided that the display does not flash.
  - b) Illuminated Signs: Any sign that is illuminated by flashing or blinking lights or in which the illumination changes color.
  - c) Inflatable Signs/Displays: Inflatable signs or advertising displays except in conjunction with special events not more than two times in a calendar year for no more than thirty (30) consecutive days provided such periods of use are separated by at least thirty (30) days. Temporary inflatable signs or displays are allowed only with a sign permit issued by the Code Enforcement Officer.

- d) Awning Signs: Signs on an awning or the use of the awning as an advertising feature to draw attention to the premises. Awnings may not contain any color scheme or graphic treatment that is used to identify a particular business or brand, may not be made out of reflective, florescent, or translucent materials, may not be back lit, and must be primarily a solid color that is not intended to draw attention to the property.
- e) Canopy Signs: Signs on a canopy (such as a canopy over a fueling island or drive-through facility). Canopies located in a village environment may not include any color scheme or graphic treatment that is used to identify a particular business or brand. Canopies in a roadside or industrial/business park environment may include a brand related color scheme or graphic treatment but may not include the name of the product or business.
- f) Pennants, Banners, Streamers, etc.: Pennants, banners, streamers, advertising flags other than one (1) "open" flag per business or occupant, whirligigs, and similar devices intended to draw attention to a specific property except in conjunction with special events not more than two times in a calendar year for no more than thirty (30) consecutive days provided such periods of use are separated by at least thirty (30) days. Temporary displays are allowed only with a sign permit issued by the Code Enforcement Officer.
- g) Strings of Lights or Lighted Tubing: Strings of lights or lighted tubing that outlines a sign or a building or its major features such as roof lines, windows, or doors or that are used as an advertising feature to draw attention to the premises except for temporary holiday lighting and decorations, or those allowed for restaurant outdoor dining.
- h) Temporary Signs: Plastic, fabric, cardboard, wooden, paper or similar signs that are not part of the permanent signage of the premises including those advertising products or services available on the premises except in conjunction with special events not more than two times in a calendar year for no more than thirty (30) consecutive days provided such periods of use are separated by at least thirty (30) days. Temporary signs are allowed only with a sign permit issued by the Code Enforcement Officer. The date upon which the sign permit expires and the sign permit number must be affixed to the sign in a way that allows this information to be easily read. Any sign that is a part of the permanent signage of the premises is subject to the sign requirements and limits of the environment in which it is located.
- i) Reflective or Luminous Surface Materials: Any sign with reflective or luminous surface materials including luminous paint.
- j) Signs Prohibited by State Law: Any sign prohibited by state law or regulation.
- k) Appendages to Signs: Any extensions or additions to a sign or appendages that hang or extend from a sign or its supporting structure that is not an integral part of the design of the sign unless approved by the Town of Gorham Planning Board as part of the site plan review for the project.
- l) Building or Roofing Materials as Signs: The exterior materials of a building including the roofing materials may not be used as a sign or a brand specific advertising element except for "roof art" approved in accordance with E.6)

The color or ornamentation of the building or the roof may not have the effect of the building or roof functioning as a sign as a result of its distinctive appearance.

- m) Prohibited Content: Signs that contain hate speech as defined by the criminal statutes of the State of Maine or that express an obscene message.
- n) Sandwich Board/A-Frame Signs: Freestanding signs that meet the definition of a sandwich board sign are prohibited within street rights-of-way.
- o) Off-Premises Signs: All signs must be located on the same lot as the use or occupant that is the subject of the sign or where the goods or services are available except as specifically provided for in this section. Off-premises signs are allowed only for Exempt Signs in accordance with subsection C. Official Business Directional Signs in accordance with subsection H. Business Park Identification Signs in accordance with subsection I, Farm Stand Signs in accordance with subsection E. Performance Standards, 13) Farm Stand Directional Signs and Village Shared Entrance Signs in accordance with subsection E., 14).

#### E. PERFORMANCE STANDARDS

In addition to the standards set forth in the preceding subsections, signs shall conform to the following performance standards as applicable:

1. Readerboard Signs: A readerboard may be incorporated into a new project or business sign. The area of the readerboard shall be less than seventy-five percent (75%) of the total sign area of the sign and shall be counted in both the size of the sign and the total allowed sign area for the property. The readerboard must be integrated into and be compatible with the overall design of the sign. A readerboard may not be added to an existing sign. The message on the readerboard may not change more than once in any twelve (12) hour period. If the readerboard includes an electronic time or temperature display, that display is exempt from this requirement. A readerboard that alternates a time or temperature display with other information is not permitted unless the change frequency conforms to the twelve (12) hour interval. An electronic readerboard that incorporates a time or temperature display may not be located within two thousand (2,000) feet, as measured along the same street, of any other electronic readerboard with a time or temperature display.

In the Roadside and Industrial/Business Park Environments, the readerboard may be an “electronic message board” illuminated by LEDs or other similar light sources provided the electronic message board conforms to all of the following requirements:

- a) The message shall be limited to alpha-numeric characters but the background of the message board may include graphics, pictures, or other visual features.
- b) The LEDs or other light elements that make up the message board shall be a single color in the amber or red spectrums.
- c) The intensity of the illumination shall be consistent for the entire board and shall be constant during the daytime and nighttime periods unless the intensity of illumination is programmed to adjust to ambient light levels.
- d) When the message on the board is changed, all changes to any of the elements on the face of the sign, including any background graphics or pictures, shall occur simultaneously. This provision does not preclude

keeping some elements of the sign, including background graphics or pictures constant, while other elements are changed.

- e) The display, including time or temperature displays and background graphics or pictures, may not flash, scroll, or appear to move.
  - f) The numbers or letters shall consist of a single row of pixels.
  - g) The illumination level or brightness of the face of the sign shall not exceed 500 nits from the period from one-half hour before sunset to one-half hour after sunrise and 3,500 nits from one-half hour after sunrise to one-half hour before sunset. The Planning Board may allow an increase in the daytime illumination level to not more than 5,000 nits if the applicant demonstrates during site plan review that the higher level is necessary for the sign to be readable in anticipated ambient light levels.
  - h) The message board shall be equipped with an automatic dimmer to control the changes from the daytime illumination levels to the nighttime levels.
  - i) The owner of the sign shall provide a written certification from the supplier or installer of the message board that the sign conforms to the standards for maximum illumination levels.
  - j) The system shall not allow the owner of the sign to independently change the illumination levels.
2. Projecting Signs: A projecting sign may be located over a public sidewalk or other public space only with the approval of the Code Enforcement Officer and proof of liability insurance to protect the Town. A projecting sign located over a sidewalk or pedestrian way or space must provide a minimum of 8 (eight) feet of clearance beneath the lowest element or component of the sign including the supporting structure.
3. Business Identification Signs: A business identification sign may be attached to or hung from the underside of a canopy over a pedestrian walkway that provides access to the occupants of the building. Each sign must be located immediately adjacent to the entrance to the occupant to which it applies.
4. Illumination of Signs: Illuminated signs in the Roadside Environment and the Industrial/Business Park Environment may be either internally or externally illuminated. Illuminated signs in the Village Environment and Residential Environment may only be externally illuminated. Signs in the Residential Environment may only be illuminated during the normal hours of operation of the occupant(s). The source of the illumination for externally illuminated signs must be shielded so that the bulb, reflector, or other light source is not directly visible from public streets. The use of visible lights or light emitters such as LED's as part of the sign is prohibited except as part of a readerboard meeting the requirements of 1) above. If a sign is internally illuminated, the use of white or light colored background should be avoided or minimized, but if white or a light color is used in the background, not more than forty percent (40%) of the internally illuminated area of the sign face may be of such color.
5. Orientation of Signs: The intention of this limitation is to allow signs that can be seen from the street(s) or access roads on which the building fronts or from which the property has vehicular access but to prevent signs that are designed or located so as to be able to be seen from streets on which the property does not front or from which it does not have vehicular access. Therefore, signs must be placed so that they can be seen from streets or private access drives that the property has



vehicular access from and/or to which the front of the building is oriented. Signs on corner lots may be orientated to both streets. Signs may not be placed in locations where they are intended to be seen from streets from which the property does not have access nor which the front of the building does not face.

6. Signs on Roofs: Signs on roofs are generally not permitted for residential or non-residential uses. The Planning Board may permit the installation of a vertical wall sign on a mansard or similar roof which essentially serves as the exterior wall of a portion of the building or on a pitched roof if the board finds as part of the site plan review for the project that there is no other reasonable location for the sign on the wall of the building. Any sign placed on a roof must not extend above the peak or ridge of the roof surface upon which it is placed. The Planning Board may allow the installation of "roof art" in which a sign or advertising feature is incorporated into the roof or roofing material if the Board finds that the roof art is thematically or historically appropriate for the building and the environment in which it is located.
7. Location of Additional Signs on Properties with Vehicle Access from More than One Street: If a property is permitted to have additional signs because it has vehicular access from more than one street, not more than one sign of any type (project, directory, business) may be placed adjacent to any access. The additional signs must be located adjacent to the access points from the other streets.
8. Location of Additional Signs on Properties with Multiple Vehicle Accesses from One Street: If a property is permitted to have additional signs because it has more than one vehicular access from a street, not more than one sign of any type (project, directory, business) may be placed adjacent to any access. The additional signs must be located adjacent to other accesses.
9. Master Sign Plan: For a new multi-occupant, non-residential building or the renovation or expansion of an existing multi-occupant building that requires major or minor site plan review, the owner shall submit a master sign plan as part of the application for site plan review. The master sign plan shall identify the proposed location and size of signs to be allowed on the site including provisions for how individual business signs will be treated. The master sign plan should demonstrate how the signs on the property will be coordinated in conformance with the requirements of this section to create a harmonious visual environment. This plan must specify any conditions or limits that will be applied to future signs or changes in signs to conform to these requirements. Once a master sign plan has been approved for a building, all future signs including the replacement of existing signs, shall conform to the approved plan. The approved master sign plan may be revised with the approval of the Planning Board.
10. Interior Window Signs or Displays: Interior window signs or displays may be visible from outside of the building through not more than forty percent (40%) of the glazed area of the window. If a permanent sign is painted on the window, the area of that sign must be included in the forty percent limit. Signs or displays may not be illuminated except for "open" signs or signs indicating the operating hours of the occupant. The area of each sign or display shall be calculated in accordance with Section 2-3. B.2. and the area of the individual signs and displays aggregated to determine the total sign area.
11. Location of Freestanding Signs: Freestanding signs including any supporting structures, bases, or related landscaping must be located so that they do not encroach on street rights-of-ways or other parcels. The signs must be located so they do not obstruct the vision of drivers on public streets or private driveways or access roads or the visibility of pedestrians. The location of a freestanding sign must be shown on the sign permit and is subject to review by the Town after installation to determine if this standard is met. If the Code Enforcement Officer

determines that the sign obstructs the visibility of drivers or pedestrians or otherwise creates a safety concern, the sign must be relocated to a location consistent with this requirement.

12. Information/Direction Signs: An information/direction sign shall only provide information or directions that relate to the use of the property and may not include any advertising such as prices or product information, but may include the name and/or logo of the occupant or the project. The area of the name and/or logo may not exceed forty percent (40%) of the area of the sign. The sign may not be illuminated. The sign must be located in relationship to the information provided.
13. Farm Stand Directional Signs: Farms which sell produce at the site where that produce is grown are eligible for a seasonal farm stand directional sign. The provision allows for a maximum of 4 signs to be installed within a 5 mile radius of the farm. The signs may not exceed 8 square feet, must be directional in nature, and must advertise only the agricultural product available for immediate purchase. Signs must be placed so they do not block sight distance for any road intersections or driveways and are not a traffic hazard. The signs cannot be illuminated by any means and must be removed once the agricultural produce advertised on the sign is no longer available.

A sign permit is required prior to placement of any Farm Stand Directional Signs. The sign permit application shall include a description and picture of the signs being installed and a map which shows the locations for all signs being installed and the distances from the farm. The sign permit shall be renewed annually.

Once the seasonal farm stand directional sign application is approved and permit issued, the Code Enforcement Office shall send written notification to the owners of property adjoining the location of the signs. The notification shall be sent within 2 business days after the permit is issued. The adjoining property owners shall have 14 days to submit a written request to the Code Enforcement Office for a change in the location of the farm direction sign(s). Such a request must include two alternate locations for the sign. The proposed alternate locations must adjoin the objecting property owner's lot. The alternate locations must also be visible from the roadway and provide the intended direction to the farm stand without causing a safety hazard to vehicular traffic movements and/or pedestrians. The Code Enforcement Office shall review the requested change in location and within 7 days provide a written determination to the sign permit applicant and the adjoining property owner that shall establish the location of the farm stand directional sign. Any party aggrieved by the decision may appeal the Code Enforcement Officer's decision to the Zoning Board of Appeals within 30 days of the written decision.

Farms which are worked by the occupant are permitted two signs which shall not exceed 72 square feet in total sign area provided the signs shall not be displayed more than 180 days within a single calendar year and shall not be subject to a fee.

14. Village Shared Entrance Signs: Lots that share entrance(s) as the only means of access into their lots are allowed to utilize a shared entrance sign(s). The sign will only advertise the businesses located on the lots utilizing the shared entrance and a readerboard sign is not allowed as part of the sign. The sign shall only be an externally illuminated sign and must reflect Village character in the design.

For lots with shared entrances located on more than one street, only one Village Shared Entrance Sign is allowed per street. No other freestanding signs are allowed for lots whose businesses utilize space on a shared entrance sign. Village Shared Entrance Signs and any associated exterior lighting are required to be approved as part of a site's Master Sign Plan.

15. Sandwich Board/A-Frame Signs: In addition to the signs allowed under Section G. Permitted Non-Residential Signs, a single occupant property is allowed one sandwich board sign with an area not to exceed 8 sq. ft. A multi-occupant property is allowed to have up to 3 sandwich board signs in use at one time with only 1 sign being used per occupant. The sandwich board signs must be taken inside when the business is closed. The signs cannot be located within any street rights-of-way, must be located on the same lot as the site, and cannot hinder or restrict pedestrian or vehicular traffic on or off the site.

#### F. PERMITTED RESIDENTIAL SIGNS

Residential uses may display a single sign not over six square feet in area attached to a building or detached and located in the front yard relating to uses or services rendered on the premises, the sale, rental or lease of the premises.

#### G. PERMITTED NON-RESIDENTIAL SIGNS

Signs in conjunction with non-residential occupants including non-residential uses in residential zones shall conform to the following maximum standards. The standards for the maximum number of signs, maximum size and height of signs, and maximum sign area per occupant vary depending on the environment within which the property and sign are located. There are four different environments each with different standards. The four environments are:

Village Environment – These standards apply to signs that are located in the Village Centers District, Urban Commercial District, and Office-Residential District.

Roadside Environment – These standards apply to signs that are located in the Rural District, Roadside Commercial District, Commercial/Office District, Narragansett Development District, and those portions of the Industrial District located outside of an industrial or business park.

Industrial/Business Park Environment – These standards apply to signs that are located in or are associated with an industrial or business park in an Industrial District that has been approved by the Planning Board as a coordinated development.

Residential Environment – These standards apply to signs related to a non-residential use in the Urban Residential District and Suburban Residential District.

The sign standards of the underlying environment shall apply to a contract zone unless the provisions of the contract zone specifically modify the sign requirements. The requirements for the type, number, size, and height of signs or total sign area may be modified as part of the contract zone provisions.

The following maximum standards apply to the four environments:

##### 1) Village Environment

###### a) Single-Occupant Property

###### (1) Allowed Freestanding Signs

- (a) Ground-Mounted Business Signs: One ground-mounted business sign having not more than twenty-four (24) square feet (SF) of sign area and being not more than eight (8) feet high for each street frontage from which the property has vehicular access.

- (b) Sandwich Board/A-Frame Sign: per Section 2-3, Signs, E., Performance Standard, 15

(2) Allowed Building Signs

- (a) Wall Business Signs: Any number of wall business signs having a maximum total area of the greater of: 1) thirty-six (36) SF of sign area, or 2) 0.75 SF of sign area for each foot of width of the primary front façade of the principal building facing the primary adjacent street as measured on the building footprint to a maximum of one hundred (100) SF. If the property does not have either a freestanding ground-mounted business sign or a projecting sign, the maximum total area of wall business signs may be increased by twenty-four (24) SF. If the property has a projecting sign and does not have a freestanding ground-mounted business sign, the maximum total area of wall business signs may be increased by fourteen (14) SF. In accordance with the standards of Subsection L, the Planning Board, upon written request of the applicant, may waive or modify the one hundred (100) SF cap on wall sign area up to the maximum sign area that would be allowed without the cap, and may increase the maximum total area of wall signs for buildings that have frontage on two or more streets or private access ways by up to fifty percent (50%) provided that no façade may have more than the base amount of sign area. Each façade of the building may have a maximum of two (2) wall signs, not including signs permanently painted on windows, unless a greater number is approved in accordance with Subsection L.
- (b) Projecting Signs: One projecting sign having not more than ten (10) SF of sign area but only if the property does not have a freestanding ground-mounted business sign.

(3) Allowed Interior Window Signs or Displays

- (a) Interior window signs or displays in any window that does not directly face an adjacent property in residential use in a residential zone subject to the performance standards of E. 10).

(4) Allowed Information/Direction Signs

- (a) Any number of information/direction signs each having not more than four (4) SF of sign area.

b) Multi-Occupant Property

(1) Allowed Freestanding Signs

- (a) Ground-Mounted Project Signs: One ground-mounted project sign having not more than twenty-four (24) SF of sign area and being not more than eight (8) feet high for each frontage from which the property has vehicular access
- (b) Ground-Mounted Directory Signs: One ground-mounted directory sign having not more than twenty-four (24) SF of sign area and being not more than eight (8) feet high for each frontage from which the property has vehicular access
- (c) Combination Ground-Mounted Project/Directory Signs: One combination ground-mounted project/directory sign having not more than forty-eight (48) SF of sign area and being not more than eight (8) feet high for each frontage from which the property has vehicular access but only if the property has no other freestanding project or directory signs.
- (d) Village Shared Entrance Signs. One shared entrance sign is allowed to be up to 72 sq.ft. in total area for all businesses on the sign and no more than

16' in height. For properties with multiple shared entrances onto different streets, only one shared entrance sign is allowed to have up to 72 sq.ft. in total area for all businesses on the sign and no more than 16' in height; all other shared entrance signs must conform to the height and sign area allowed under the Village Sign Environment Combination Ground-Mounted Project/Directory Sign.

Business signage on any Village Shared Entrance sign shall be restricted to the following sizes: One business shall be allowed a maximum of 28 sq.ft. of sign area with all other businesses being allowed a maximum of 16 sq.ft. of sign area.

Sign height: the bottom of the first business sign shall not be more than 4' off the ground. No spaces larger than 1" are permitted between business signs.

- (e) Sandwich Board/A-Frame Sign: per section 2-3 Signs, E. Performance Standard, 15

(2) Allowed Building Signs

- (a) Project Signs: One project sign having a maximum area of the greater of: 1) eighteen (18) SF of sign area, or 2) 0.5 SF of sign area for each foot of width of the primary front façade of the principal building facing the primary adjacent street as measured on the building footprint.
- (b) Directory Signs: One directory sign having not more than six (6) SF of sign area at each public entry to the building that provides access to more than one occupant.
- (c) Wall Business Signs (First Floor Occupants): Any number of wall business signs having a maximum total sign area of the greater of: 1) thirty-six (36) SF of sign area, or 2) 0.75 SF of sign area for each foot of width of the primary front façade occupied by the occupant to which the sign relates (or width of the front façade of the occupied space if the space faces a parking area or internal roadway), for each occupant on the first floor in accordance with an approved master sign plan if applicable. If the property does not have a freestanding ground-mounted project sign and an occupant does not have a projecting sign, the maximum total area of wall business signs permitted for the occupant may be increased by twenty-four (24) SF. If the occupant has a projecting sign and the property does not have a freestanding ground-mounted project sign, the maximum total area of wall business signs for an occupant may be increased by fourteen (14) SF. Not more than two (2) wall signs for any occupant may be located on each façade of the building, not including signs permanently painted on windows, unless a greater number is approved in accordance with Subsection L.
- (c) Wall Business Signs (Upper Floor Occupants): Any number of wall business signs having not more than thirty-six (36) SF of total sign area for each occupant on upper floors in accordance with an approved master sign plan if applicable. If the property does not have a freestanding ground-mounted project sign and an occupant does not have a projecting sign, the maximum total area of wall business signs permitted for the occupant may be increased by twenty-four (24) SF. If the occupant has a projecting sign and the property does not have a freestanding ground-mounted project sign, the maximum total area of wall business signs for an occupant may be increased by fourteen (14) SF. Not more than two (2) wall signs for any

- (d) occupant may be located on each façade of the building, not including signs permanently painted on windows, unless a greater number is approved in accordance with Subsection L.
    - (e) Projecting Business Signs: One projecting business sign having not more than ten (10) SF of sign area for each occupant in accordance with an approved master sign plan if applicable.
    - (f) Business Identification Signs: One business identification sign having not more than three (3) SF of sign area for each occupant in accordance with an approved master sign plan if applicable but only if the property has a canopy over a pedestrian walkway providing access to the occupants.
  - (3) Allowed Interior Window Signs or Displays
    - (a) Interior window signs or displays in any window that does not directly face an adjacent property in residential use in a residential zone subject to the performance standards of E.10).
  - (4) Allowed Information/Direction Signs
    - (a) Any number of information/direction signs each having not more than four (4) SF of sign area.
- 2) Roadside Environment
- (a) Single-Occupant Property
    - (1) Allowed Freestanding Signs
      - (a) Ground or Pole-Mounted Business Signs: One ground-mounted or pole-mounted business sign having not more than thirty-six (36) square feet (SF) of sign area and being not more than sixteen (16) feet high for each frontage from which the property has vehicular access.
      - (b) Additional Ground or Pole-Mounted Business Signs: One additional ground-mounted or pole-mounted business sign having not more than thirty-six (36) SF of sign area and being not more than sixteen (16) feet high for any property with more than one hundred fifty (150) feet of street frontage that has two or more separate vehicular points of access.
      - (c) Sandwich Board/A-Frame Sign: per Section 2-3 Signs, E. Performance Standard, 15
    - (2) Allowed Building Signs
      - (a) Wall Business Signs: Any number of wall business signs having a maximum total area of the greater of: 1) forty-eight (48) SF of sign area, or 2) one (1) SF of sign area for each foot of width of the primary front façade of the principal building facing the primary adjacent street as measured on the building footprint to a maximum of two hundred (200) SF. In accordance with the standards of Subsection L, the Planning Board, upon written request of the applicant, may increase the maximum total area of wall signs for buildings that have frontage on two or more streets or private accessways by up to fifty percent (50%) provided that no façade may have more than the base amount of sign area. Each façade of the building may have a maximum of two (2) wall signs, not including signs permanently painted on windows, unless a greater number is approved in accordance with Subsection L.

(3) Allowed Interior Window Signs or Displays

- (a) Interior window signs or displays in any window that does not directly face an adjacent property in residential use in a residential zone subject to the performance standards of E. 10)

(4) Allowed Information/Direction Signs

- (a) Any number of information/direction signs each having not more than six (6) SF of sign area.

(b) Multi-Occupant Property

(1) Allowed Freestanding Signs

- (a) Ground or Pole-Mounted Project Signs: One ground-mounted or pole-mounted project sign having not more than thirty-six (36) SF of sign area and being not more than sixteen (16) feet high for each frontage from which the property has vehicular access.
- (b) Ground-Mounted Directory Signs: One ground-mounted directory sign having not more than twenty-four (24) SF of sign area and being not more than eight (8) feet high for each frontage from which the property has vehicular access provided that the sign is located to be read from an internal access drive or parking lot.
- (c) Combination Ground or Pole-Mounted Project/Directory Signs: One combination ground-mounted or pole-mounted project/directory sign having not more than forty-eight (48) SF of sign area and being not more than sixteen (16) feet high for each frontage from which the property has vehicular access but only of the property does not have a freestanding project or directory sign.
- (d) Ground or Pole-Mounted Business Signs: One ground-mounted or pole-mounted business sign having not more than thirty-six (36) SF of sign area and being not more than sixteen (16) feet high for each frontage from which the property has vehicular access for the primary occupant of the project.
- (e) Additional Ground or Pole-Mounted Business Signs: One additional ground-mounted or pole-mounted business sign having not more than thirty-six (36) SF of sign area and being not more than sixteen (16) feet high for the primary occupant of the property for any property with more than one hundred fifty (150) feet of street frontage that has two or more separate vehicular points of access from that street.
- (f) Sandwich Board/A-Frame Sign: per Section 2-3 Signs, E. Performance Standard, 15

(2) Allowed Building Signs

- (a) Project Signs: One project sign having a maximum area of the greater of: 1) thirty-six (36) SF of sign area, or 2) one (1) SF of sign area for each foot of width of the primary front façade of the principal building facing the primary adjacent street as measured on the building footprint.
- (b) Directory Signs: One directory sign having not more than six (6) SF of sign area at each public entry to the building that provides access to more than one occupant.
- (c) Wall Business Signs (First Floor Occupants): Any number of wall business sign having a maximum total sign area of the greater of: 1) forty-eight (48) SF of sign area, or 2) 1.0 SF of sign area for each foot of width of the primary front façade

occupied by the occupant to which the sign relates (or width of the front façade of the occupied space if the space faces a parking area or internal roadway) for each occupant on the first floor in accordance with an approved master sign plan if applicable. Not more than two (2) wall signs for any occupant may be located on each façade of the building, not including signs permanently painted on windows, unless a greater number is approved in accordance with Subsection L.

- (d) Wall Business Signs (Upper Floor Occupants): Any number of wall business signs having not more than thirty-six (36) SF of total sign area for each occupant on upper floors in accordance with an approved master sign plan if applicable. Not more than two (2) wall signs for any occupant may be located on each façade of the building, not including signs permanently painted on windows, unless a greater number is approved in accordance with Subsection L.
- (e) Business Identification Signs: One business identification sign having not more than three (3) SF of sign area for each occupant in accordance with an approved master sign plan if applicable but only if the property has a canopy over a pedestrian walkway providing access to the occupants.

(3) Allowed Interior Window Signs or Displays

- (a) Interior window signs or displays in any window that does not directly face an adjacent property in residential use in a residential zone subject to the performance standards of E.10).

(4) Allowed Information/Direction Signs

- (a) Any number of information/direction signs each having not more than six (6) SF of sign area.

3) Industrial/Business Park Environment

a) Single-Occupant Property within an Industrial/Business Park

(1) Allowed Freestanding Signs

- (a) Ground or Pole-Mounted Business Signs: One ground-mounted or pole-mounted business sign having not more than thirty-six (36) square feet (SF) of sign area and being not more than sixteen (16) feet high for each frontage from which the property has vehicular access.
- (b) Sandwich Board/A-Frame Sign: per Section 2-3 Signs, E. Performance Standards, 15

(2) Allowed Building Signs

- (a) Wall Business Signs: Any number of wall business signs having a maximum total area of the greater of: 1) forty-eight (48) SF of sign area, or 2) 1.5 SF of sign area for each foot of width of the primary front façade of the principal building facing the primary adjacent street as measured on the building footprint to a maximum of two hundred fifty (250) SF. Each façade of the building may have a maximum of two (2) wall signs, not including signs permanently painted on windows.

(3) Allowed Information/Direction Signs

- (a) Any number of information/direction signs each having not more than eight (8) SF of sign area.



b) Multi-Occupant Property within an Industrial/Business Park

(1) Allowed Freestanding Signs

- (a) Ground or Pole-Mounted Project Signs: One ground-mounted or pole-mounted project sign having not more than thirty-six (36) SF of sign area and being not more than sixteen (16) feet high for each frontage from which the property has vehicular access.
- (b) Ground-Mounted Directory Signs: One ground-mounted directory sign having not more than twenty-four (24) SF of sign area and being not more than eight (8) feet high for each frontage from which the property has vehicular access provided that each sign is located to be read from an internal access drive or parking lot.
- (c) Combination Ground or Pole-Mounted Project/Directory Signs: One combination ground or pole-mounted project/directory sign having not more than forty-eight (48) SF of sign area and being not more than sixteen (16) feet high for each frontage from which the property has vehicular access but only if the property has no other freestanding project or directory signs.
- (d) Ground or Pole-Mounted Business Signs: One ground-mounted or pole-mounted business sign having not more than thirty-six (36) SF of sign area and being not more than sixteen (16) feet high for the primary occupant of the property for each frontage from which the property has vehicular access.
- (e) Sandwich Board/A-Frame Signs: per Section 2-3 Signs, E. Performance Standards, 15

(2) Allowed Building Signs

- (a) Project Signs: One project sign having a maximum area of the greater of 1) thirty-six (36) SF of sign area, or 2) one (1) SF of sign area for each foot of width of the primary front façade of the principal building facing the primary adjacent street as measured on the building footprint.
- (b) Directory Signs: One directory sign having not more than six (6) SF of sign area at each public entry to the building that provides access to more than one occupant.
- (c) Wall Business Signs: Any number of wall business signs having not more than seventy-two (72) SF of total sign area for each occupant in accordance with an approved master sign plan if applicable. Each façade of the building may have a maximum of two (2) wall signs, not including signs permanently painted on windows.

(3) Allowed Information/Direction Signs

- (a) Any number of information/direction signs each having not more than eight (8) SF of sign area.

4) Residential Environment

a) Single-Occupant Non-Residential Property

(1) Allowed Freestanding Signs

- (a) Ground-Mounted Business Signs: One ground-mounted business sign having not more than twenty-four (24) square feet (SF) of sign area and being not more than

eight (8) feet high for each street frontage from which the property has vehicular access.

- (b) Sandwich Board/A-Frame Signs: per Section 2-3, Signs, E. Performance Standards, 15

(2) Allowed Building Signs

- (a) Wall Business Signs: Any number of wall business signs having a maximum total area of the greater of: 1) thirty-six (36) SF of sign area, or 2) 0.75 SF of sign area for each foot of width of the primary front façade of the principal building facing the primary adjacent street as measured on the building footprint to a maximum of sixty (60) SF. In accordance with the standards of Subsection L, the Planning Board, upon written request of the applicant, may increase the maximum total area of wall signs for buildings that have frontage on two or more streets or private access ways by up to fifty percent (50%) provided that no façade may have more than the base amount of sign area. Each façade of the building may have a maximum of two (2) wall signs, not including signs permanently painted on windows, unless a greater number is approved by the Planning Board in accordance with Subsection L.

(3) Allowed Information/Direction Signs

- (a) Any number of information/directions signs each having not more than two (2) SF of sign area.

- (b) Multi-Occupant Non-Residential or Mixed-Use Property

(1) Allowed Freestanding Signs

- (a) Ground-Mounted Project Signs: One ground-mounted project sign having not more than twenty-four (24) SF of sign area and being not more than eight (8) feet high for each frontage from which the property has vehicular access.
- (b) Ground-Mounted Directory Signs: One ground-mounted directory sign having not more than twenty-four (24) SF of sign area and being not more than eight (8) feet high for each frontage from which the property has vehicular access.
- (c) Combination Ground-Mounted Project/Directory Signs: One combination ground-mounted project/directory sign having not more than forty-eight (48) SF of sign area and being not more than eight (8) feet high for each frontage from which the property has vehicular access but only if the property has no other freestanding project or directory signs.
- (d) Sandwich Board/A-Frame Signs: per Section 2-3 Signs, E. Performance Standards, 15.

(2) Allowed Building Signs

- (a) Project Signs: One project sign having a maximum area of the greater of: 1) eighteen (18) SF of sign area, or 2) 0.5 SF of sign area for each foot of width of the primary front façade of the principal building facing the primary adjacent street as measured on the building footprint.
- (b) Directory Signs: One directory sign having not more than six (6) SF of sign area at each public entry to the building that provides access to more than one non-residential occupant.

- (c) Wall Business Signs (First Floor Non-Residential Occupants): Any number of wall business signs having a maximum total sign area of the greater of: 1) thirty-six (36) SF of sign area, or 2) 0.75 SF of sign area for each foot of width of the primary front façade occupied by the non-residential occupant to which the sign relates (or width of the front façade of the occupied space if the space faces a parking area or internal roadway), for each non-residential occupant on the first floor in accordance with an approved master sign plan if applicable. Not more than two (2) wall signs for any occupant may be located on each façade of the building, not including signs permanently painted on windows, unless a greater number is approved in accordance with Subsection L.
- (d) Wall Business Signs (Upper Floor Non-Residential Occupants): Any number of wall business signs having not more than twenty-four (24) SF of total sign area for each non-residential occupant on upper floors in accordance with an approved master sign plan if applicable. Not more than two (2) wall signs for any occupant may be located on each façade of the building, not including signs permanently painted on windows, unless a greater number is approved in accordance with Subsection L.

(3) Allowed Information/Direction Signs

- (a) Any number of information/directions signs each having not more than two (2) SF of sign area.

## H OFFICIAL BUSINESS DIRECTIONAL SIGNS

Official Business Directional Signs shall be allowed pursuant to the Maine Traveler Information Act and the rules and regulations promulgated there under by the Maine Department of Transportation. All Official Business Directional Signs must meet current MDOT standards regulating the installation of such signs. The background color of all such signs in the Town (including both reflectorized and nonreflectorized) shall be of uniform blue in accordance with Maine Department of Transportation regulations relating to off-premises signs as may be amended from time to time.

## I. INDUSTRIAL PARK IDENTIFICATION SIGNS

Gorham Industrial Park Identification Signs may be located off the Industrial Park premises at the entrances of the Industrial Park on Bartlett Road and at the entrance of any new public road that accesses the Gorham Industrial Park and must be approved by the Gorham Economic Development Corporation and the Gorham Town council.

- 1. Granite signs identifying the Gorham Industrial Park and accompanying decorative wall shall not exceed 120 square feet on any one side.
- 2. Gorham Industrial Park Directory signs may be located at intersections within the Industrial Park.

## J PORTABLE SIGNS

- 1. Except as otherwise provided by ordinance, on-premises portable signs as defined by the BOCA Code shall be allowed as provided for herein. All portable signs shall require a permit issued by the Code Enforcement Officer. The Code Enforcement Officer shall grant any such permit upon demonstration by the applicant that the sign is in full compliance with all laws and ordinances applicable to said permit, unless in the opinion of the Code Enforcement Officer granting such permit would endanger the public safety. The application for such permit shall contain the name and address of the applicant, the purpose for which the portable sign is requested, and the written consent of the owner or lessee of the premises on which the sign is located. The permit shall be granted for a period of thirty (30) days nor shall more than two (2) such permits be

issued for any particular property, business or location in any twelve (12) month period provided, however, that there shall be a waiting period of not less than thirty (30) days between the date of expiration of one such permit and the issuance of the next such permit. Upon expiration of the permit, the portable sign shall immediately be removed. In addition to the application fee in such amount(s) and for such purposes(s) as the Town Council may from time to time establish by Council order, the applicant shall pay in advance a deposit in such amount(s) and for such purpose(s) as the Town Council may from time to time establish by Council order to be refunded upon removal of the sign in conformance with this ordinance; provided, however, if the sign is not removed upon expiration of the permit, the Town shall notify the permit holder in writing of the violation and indicate that he has ten (10) days from mailing of the letter to appeal the proposed forfeiture to the Code Enforcement Officer. If the matter is not timely appealed to the C.E.O. or, if appealed, the appeal be denied, the deposit shall be forfeited to the Town. Such forfeiture shall be in addition to any other remedies otherwise provided by law. The requirement of a deposit shall be waived for non-profit organizations.

2. Portable signs in excess of thirty-two (32) square feet in surface area shall not be permitted.
- 3) Signs otherwise meeting the BOCA Code definition of portable signs and that are intended to be permanently placed shall be permanently anchored and regulated in accordance with the applicable provisions of this section for the type and location of the sign.

#### K. CONTINUATION AND TERMINATION OF NONCONFORMING SIGNS

1. Removal of Illegal Signs: Signs that were previously installed without a permit from the Town or that are not legally nonconforming must be removed within ninety (90) days of the adoption of this provision.
2. Continued Use of Legally Nonconforming Signs: Legally existing nonconforming signs may continue to be used in accordance with this subsection. Legally nonconforming signs may be repaired but the sign may not be otherwise altered, enlarged, or relocated except as provided for in 3.
3. Discontinuation/Replacement of Nonconforming Signs: Any legally existing nonconforming sign as of the date of adoption of this Section shall be removed or brought into conformance with the applicable provisions of this Section:
  - a) Prior to the issuance of a certificate of occupancy for a building or premises that is substantially changed or altered in a manner that requires major site plan review,
  - b) Within thirty (30) days of a change of the Occupant of the building or space,
  - c) Within thirty (30) days if a building is demolished, destroyed, or moved from the parcel,
  - d) Within thirty (30) days if the sign is demolished, destroyed, or moved from the parcel, and the extent of the repairs exceeds 90% of the cost of replacing the sign with a conforming sign or the sign is moved from the parcel.

The applicant shall be responsible for demonstrating to the Planning Board's satisfaction that all of these conditions are met.

The Planning Board shall approve the replacement of a nonconforming sign with a less nonconforming sign. This replacement is available only one time for each nonconforming sign. The definition of less nonconforming is as follows:

- a) The replacement sign may be greater in area and height than the maximum allowed for a conforming sign by up to fifty percent (50%) of the difference between the existing nonconforming sign and a conforming sign;
- b) If a readerboard exists in the nonconforming sign that is not integrated into the sign, a replacement readerboard must be integrated into the new sign but may not be more than 75% of the area of the replacement sign; and
- c) If the nonconforming sign is a wall sign and the area of all wall signs is greater than the maximum conforming area allowed, the replacement wall sign must reduce the nonconformance of the total wall sign area by at least half of the difference between the existing nonconforming total area and the maximum conforming area for wall signs.

In all other respects including sign type, illumination, sign placement, and any other characteristic not specifically addressed in a, b, or c above, the replacement sign must meet the requirements for a conforming sign for the sign environment in which the nonconforming sign is located.

The request for Planning Board approval must be accompanied by the following:

- a) Full description of the existing nonconforming sign with drawings or photos identifying its type, size, height, and method of illumination;
- b) An analysis detailing how the existing sign does not conform to the current requirements;
- c) A full description of the proposed replacement sign with drawings or photos identifying its type, size, height, and method of illumination; and
- d) An analysis of how the proposed sign complies with the definition of less nonconforming set forth above.

#### L. ALLOWANCE OF ADDITIONAL WALL SIGNS OR WALL SIGN AREA

More than two wall business signs per façade or an increase to the total allowed wall sign area for properties that front on two or more streets or access roads may be permitted if the applicant has demonstrated to the satisfaction of both the Code Enforcement Officer and the Town Planner that additional signs and/or sign area.

- 1. Are needed to provide appropriate visibility for the business,
- 2. Will be within the maximum area of wall business signs allowed for the property including the allowed additional area,
- 3. If the project is located in the Village Centers or Urban Commercial Districts, the signs are compatible with Chapter 1, Section 1-9, Subsection 2.E.10 and Chapter 1, Section 1-10, Subsection 2.E.10.

In the event the Code Enforcement Officer and the Town Planner do not agree that the applicant meets or exceeds the requirements of this subsection, the application will be forwarded to the Planning Board for consideration.

#### M. ALLOWANCE TO ADDITIONAL FREESTANDING SIGNS FOR CORNER LOTS

Additional freestanding signs for properties that front on two or more streets but that have vehicular access from only one street may be permitted if the applicant has demonstrated to the satisfaction of both the Code Enforcement Officer and the Town Planner that:

1. The building faces or is primarily oriented to a street from which the parcel does not have vehicular access;
2. The additional sign is needed to provide appropriate visibility for occupant(s) of the property or to safely direct vehicles to the access into the property;
3. The additional sign will be located so that there is only one sign of any type on each frontage; and
4. If the project is located in the Village Centers or Urban Commercial Districts, the sign is compatible with Chapter 1, Section 1-9, Subsection 2.E.10 and Chapter 1, Section 1-10, Subsection 2.E.10.

In the event the Code Enforcement Officer and the Town Planner do not agree that the applicant meets or exceeds the requirements of this subsection, the application will be forwarded to the Planning Board for consideration.

## SECTION 2-4 - RESIDENTIAL

### A. CLUSTERED RESIDENTIAL DEVELOPMENT

A Cluster Residential Development is a form of development which allows a developer to create smaller lots than required by the applicable zoning district regulations in the Rural and Suburban Residential Districts in return for setting aside a portion of the tract as permanent open space owned and maintained by a land trust or other conservation organization. The net residential density of the site shall remain the same as if the site were developed as a conventional subdivision. Each dwelling unit in a cluster residential development shall be placed on a separate lot whether the dwelling unit is a single-family dwelling or part of a two-family or multi-family dwelling. The Planning Board may approve requests for cluster residential developments if it finds that the proposal conforms to the criteria listed below and is the best development form for the site.

Notwithstanding other provisions of this Code relating to space and bulk, the Planning Board in reviewing and approving proposed residential developments located in Gorham, may modify said provisions related to space and bulk to permit innovative approaches to housing and environmental design in accordance with the following standards. This shall not be construed as granting variances to relieve hardship.

1. Lot Size shall not be reduced to less than:
  - a. 20,000 square feet in the Suburban Residential District
  - b. 30,000 square feet in the Rural District
2. Frontage – Each lot shall have frontage on a public street or a private way proposed by the applicant as follows:
  - a. 75' in the Suburban Residential District
  - b. 100' in the Rural District
  - c. Up to 10% of the lots in a clustered subdivision may have frontages reduced below the frontage requirements stated in this subsection but not below 25'. Lots with frontage reduced under this provision shall not be adjacent to more than one other lot with such a reduced frontage, as determined at the front lot line.
3. Lot Setbacks:
  - a. Front on private way or public street not identified as a collector, arterial, or State DOT designated route: 25'
  - b. Front on a collector, arterial road, or State DOT designated route: 50'
  - c. Rear: 10'
  - d. Side: 10'

Innovate approaches to residential layout and environmental design shall be subject to the following performance standards:

1. The minimum common open spaced requirement shall be:
  - a. At least 40% of the total area of the tract or parcel of land being developed must be maintained as common open space and not be included in the individual building lots.
  - b. The following “high-value conservation areas” shall be considered when determining the area(s) within the subdivision to be allocated to the 40% required common open space.
  - c. Land deemed to be in excess of the 40% requirement up to 50% of the total land area may be required by the Planning Board as additional open space if the area contains land that meets the requirements of the “high-value conservation areas.” The Planning Board must review the overall intent of the Chapter as well as the impact on the design of the buildable lots and infrastructure of the subdivision in determining if the additional land should be included in the common open space.
  - d. Active Open Space shall be required for subdivisions with more than 25 lots and/or dwelling units. Active Open Space is for active recreation and maintenance for recreation use, including playgrounds, tennis courts, ball fields, basketball courts, and similar facilities. A part or all of the Active Open Space may, at the option of the Town, be dedicated for acceptance by the Town for operation as a municipal recreation

facility. The following table provides the minimum Active Open Space reservations required in cluster subdivisions:

<u>Average Density Per Dwelling Unit</u> <u>Space</u>	<u>Active Open Space Required, % of Subdivision Open</u>
80,000 s.f. or more	1.5
40,000 s.f. to 79,999 s.f.	2.5
20,000 s.f. to 39,999 s.f.	4
10,000 s.f. to 19,000 s.f.	5

2. High-value Conservation Areas:
  - a. Existing trails (bike, hiking, cross-country skiing, snow shoeing, horseback riding or snowmobiling) that connect with existing trails on Town-owned land or with existing trails on abutting land protected by a conservation easement or other written agreement.
  - b. Existing healthy, native forests of at least 5 contiguous acres.
  - c. Habitats of endangered or threatened species.
  - d. Significant wildlife habitats as defined by the Maine Department of Inland Fisheries and Wildlife, or the municipality.
  - e. Significant natural features and scenic views such as ridge lines, peaks and rock outcroppings, particularly those that can be seen from public roads.
  - f. Archaeological sites, historic structures, cemeteries and burial grounds.
  - g. Prime farm lands, farm land of state wide, and/or local importance of at least 1 contiguous acre.
  - h. Land being actively farmed and which will remain active farm land of a least 1 contiguous acre.
3. The subdivision shall be in compliance with all State and local codes and ordinances.
4. There shall be no approval of any proposed development which exceeds the allowable net residential densities permitted without appeal in the district in which it is located.
5. Common open space shall be usable for recreational or other outdoor living purposes and for preserving large trees, tree groves, woods, ponds, streams, glens, rock outcrops, native plant life and wildlife cover. The use of any open space may be further limited or controlled at the time of final approval where necessary to protect adjacent properties or uses. Residual open space shall be dedicated to the recreational amenity and environmental enhancement of the development and shall be recorded as such. Such dedications may include private covenants or arrangements to preserve the integrity of open spaces and their use for agricultural or conservation purposes.

The uses of common open space may include:

- a. Passive recreation, such as hiking, walking, running, biking, snowshoeing, cross-country skiing, picnicking, bird-watching, hunting, fishing, and other low-impact recreational activities that do not significantly alter the natural common open space;
- b. Operation of snowmobiles or ATVs on existing snowmobile or ATV trails;
- c. Agriculture, horticulture, silviculture or pasture uses, provided that all best management practices are utilized to minimize environmental impacts;
- d. Nonstructural stormwater management, such as rain gardens and forested buffers;
- e. Easements for drainage, access, and underground utility lines;
- f. Other conservation-oriented uses such as community gardens, compatible with the purposes of this Chapter; and
- g. Parking lots for trail head use with no more than 10 parking spaces and associated drive aisles.

The following uses are prohibited uses of common open space:

- a. Roads, parking lots and impervious surfaces, except as specifically authorized in this Chapter;



- b. Subsurface wastewater disposal systems and wells;
- c. Built stormwater management systems such as, but not limited to, ponds, underdrain ponds, catch basins, and pipes;
- d. Dumping or disposal of any type of yard waste, household waste, hazardous waste or other debris, organic or inorganic;
- e. Cutting vegetation, except for annual mowing related to agricultural uses or to prevent shrub growth from over taking protected fields, forest management of trees with an approved forest management plan written by a Maine licensed forester, or dead, diseased, or dying trees as identified by a licensed Maine arborist. Removal of invasive species as identified by the Maine Department of Agriculture, Conservation, and Forestry is exempt from this section;
- f. Altering approved common open space;
- g. Additional structures being placed in the common open space without prior Planning Board approval; and
- h. Other activities as determined by the applicant and recorded on an instrument providing permanent protection such as deed restrictions.

Common Open Space Ownership may include any of the following (with a preference to the order below):

- a. Ownership by a conservation organization approved by the Planning Board with permanent restrictions on its future use, or
  - b. Ownership by the Town with or without a conservation easement to a conservation organization approved by the Town Council and Planning Board.
  - c. Ownership by a homeowners' association conditioned on forever being maintained as common open space and there shall be no further subdivision of this land, nor buildings constructed upon it without further Planning Board review. The land may also have a conservation easement on it to the Town or a conservation organization approved by the Planning Board.
6. The first meeting with the Planning Board shall be Conceptual Design Review, and shall precede submission of a Preliminary Subdivision Review Application. The Conceptual Design Review shall include the submission of an Existing Site Resource Map, identifying both significant natural and cultural resources. It is not required that this be an engineered plan but a surveyed plan that shows wetlands, shoreland areas, significant habitat corridors, rare or endangered habitat, roads and buildings within 100 feet of the property, indication of overall stormwater flow direction, species and size of existing trees, historic and cultural resources such as existing barns, trails, cellar holes, stone walls, and other noteworthy features unique to the property. The Existing Site Resource Map shall not include proposed roads or subdivision lots. The intent of this phase of review is for there to be an opportunity to build greater Planning Board, applicant, and open space holder consensus on critical resources and over-all design of the project. The developer shall include in the over-all design team either a licensed landscape architect or a natural resource planner. The landscape architect or natural resource planner shall provide a written narrative of the existing site resource maps detailing critical areas with a recommendation about the features which should be preserved in the open space.

It is intended that the open space shall be designed first, and the built environment shall be constructed in the remaining areas. During the Conceptual Design Review process, the Board shall determine whether or not the open space layout, design and configuration is appropriate based on the size of the parcel to be developed and consistent with the goals outlined under this section and those outlined in the Town's Comprehensive Plan.

The developer shall take into consideration the following points, and shall illustrate the treatment of spaces, paths, roads, service and parking areas and other features required in his proposal:

- a) Orientation: buildings and other improvements shall respect scenic vistas and natural features.

- b) Streets: access from public ways, internal circulation and parking shall be designed to provide for vehicular and pedestrian safety and convenience, emergency and fire equipment, snow clearance, street maintenance, delivery and collection services. Streets shall be laid out and constructed consistent with local requirements.
- Driveways shall be located on to interior road networks to the greatest extent practical. Curb cuts for driveways and new streets on any collector roads, arterial roads, or Maine State DOT number routes shall meet standards for access management as specified in the Land Use and Development Code, Section 2-5, H.
- c) Drainage: adequate provision shall be made for storm waters, with particular concern for the effects of any effluent draining from the site. Erosion resulting from any improvements on the site shall be prevented by landscaping or other means.
  - d) Sewage Disposal: adequate provision shall be made for sewage disposal, and shall take into consideration soil conditions and potential pollution of surface or ground waters. The plans shall show the location of 2 passing soils areas on each lot proposed. One of the test pits should be labeled as primary, which will be utilized for initial construction, with the 2<sup>nd</sup> test pit being identified as reserve and utilized when the first septic system declines.
  - e) Water Supply: adequate provision shall be made for both ordinary use as well as special fire needs.
  - f) Utilities: all utilities shall be installed underground in accordance with Land Use Code Chapter 2-10 Section 2-10A "Provision of Underground Utilities". Transformer boxes, pumping stations and meters shall be located so as not to be unsightly or hazardous to the public.
  - g) Recreation: facilities shall be provided consistent with the development proposal.
  - h) Buffering: planting, landscaping, disposition and form of buildings and other improvements, or fencing and screening shall be utilized to integrate the proposed development with the landscape and the character of any surrounding development. Buffers of at least 50 feet in width shall be created around the entire perimeter of the subdivision unless the subdivision abuts another clustered residential development or the Planning Board finds the design of the subdivision matches the existing development pattern of the area. Where possible, existing trees and vegetation shall be preserved in the buffers, except that invasive vegetation may be removed. The Planning Board may require landscaping or other features as necessary to break up the proposed development from abutting properties should the 50 foot buffer not provide adequate buffering.
  - i) Disposition of Buildings: shall recognize the need for natural light and ventilation.
7. For purposes of this section, the tract or parcel of land involved must be either in single ownership, or the subject of an application filed jointly by the owners of all the property included.
  8. Common open space shall be dedicated after approval of the project. There shall be no further subdivision of this land, nor buildings constructed upon it without further planning review and which would cause the net residential density to exceed the density permitted in that district.
  9. The common open space(s) shall be shown on the development plan and with appropriate notation on the face thereof to indicate that it:
    - a) shall not be used for future building lots.
    - b) a part or all of the common open space may, at the option of the Town, be dedicated for acceptance by the Town for operation as a municipal recreational facility.
  10. Covenants for mandatory membership in the association setting forth the owners' rights and interest and privileges in the association and the common land, shall be approved by the Planning Board and included in the deed for each lot.

11. This neighborhood association shall have the responsibility of maintaining the common open space(s) and operation and maintenance of local neighborhood recreational facilities within such open space(s).
12. The developer or subdivider shall maintain control of such open space(s) and be responsible for their maintenance until development sufficient to support the association has taken place or, alternatively, the objectives of clustering have been met. Such determination shall be made by the Planning Board upon request of the Neighborhood Association or the developer or subdivider.

B. PERFORMANCE STANDARDS FOR MULTI-FAMILY HOUSING

1. Suburban Residential and Rural District: The construction of any new multi-family dwelling or the conversion of an existing single-family or two-family dwelling into a multi-family dwelling in the Suburban Residential District and the Rural District shall be done in accordance with the following standards:
  - a) Multi-family dwellings in developed areas shall retain and respect the existing streetscape and character of the neighborhood. This shall include the size and massing of structures, the relationship of buildings to the street and the use and treatment of front yard areas.
  - b) For new construction, utilities shall be placed underground in accordance with Land Use Code Chapter 2-10 Section 2-10A "Provision of Underground Utilities".
  - c) All required yard area shall be retained as open, landscaped areas which are not occupied by buildings, structures, parking lots, storage or similar uses. Access roads or drives and sidewalks may be located to allow vehicular and pedestrian traffic to cross yard areas.
  - d) A buffer shall be established between the multi-family housing and any abutting single-family or two-family dwellings. The buffering shall be sufficient to minimize any kind of potential nuisance, such as, but not limited to, headlights, noise, storage areas or waste collection and disposal areas. The buffering shall consist of landscaping, fencing, grading or a combination of features.
  - e) All private access roads shall be located within a 50 foot dedicated right-of-way. No off-street parking shall be located within this right-of-way.
  - f) The developer shall provide a minimum of 1,000 cubic feet of private lockable storage for personal property for each dwelling unit. This space may be part of the dwelling unit or at a separate location or building.
  - g) The developer shall provide a minimum of 250 square feet of private, outdoor space for each dwelling unit.
  - h) The developer shall provide a minimum of 250 square feet of common, outdoor space for each dwelling unit which shall be developed with appropriate recreation facilities.
  - i) All roads that will be dedicated to the Town for public use shall meet the standards for public roads contained in Section 2-5 Minimum Standards for the Design and Construction of Streets and Ways. All private roads, drives, or access ways shall also meet the standards for private roads contained in Section 2-5 Minimum Standards for the Design and Construction of Streets and Ways.

- j). All off-street parking and lighting must be adequately screened from view of public ways and from adjacent lots by buildings, topography, fencing or landscaping of reasonable opacity and at least four (4) feet high.
  - k). The number of dwelling units permitted on the site shall be determined by dividing the net residential acreage by the minimum lot area required per dwelling unit.
2. Urban Residential, Village Center Districts, Urban Commercial, Mosher Corner Mixed-Use District, Office-Residential, Urban Residential Expansion District, and Narragansett Mixed-Use District: Multi-use buildings are exempt from the requirement of this section. The construction of any new multi-family dwelling or the conversion of an existing single family or two-family dwelling into a multi-family dwelling in the following growth districts shall be done in accordance with the following standards:
- a) Multi-family dwellings in developed areas shall retain and respect the existing streetscape and character of the neighborhood. This shall include the size and massing of structures, design and use of exterior building materials, the relationship of buildings to the street and the use and treatment of front yard areas. Multi-family dwellings may request a waiver should the structures be located so that they are not visible to the existing neighborhood. The developer shall include a licensed landscape architect in the over-all design team.
  - b) The maximum number of dwelling units permitted on the site shall be determined by multiplying the gross acreage of the area proposed to be subdivided by sixty-five percent (65%) to allow for access and unusable land and then dividing the resulting net area by the minimum lot area per dwelling unit.
  - c) Developments shall comply with any applicable maximum floor area and/or maximum impervious coverage ratios identified in the underlying zoning district.
  - d) Streetscape along public streets. Development adjacent to public streets shall contain the following:
    - 1. Canopy trees shall be deciduous, shade or evergreen trees planted at 3 to 3-1/2 inches in caliper with a mature height of at least 35 feet. Understory trees shall be deciduous shade, fruit or evergreen trees planted at 2 to 2-12 inches in caliper with a mature height of at least 12 feet.
    - 2. Street furniture such as benches, trash bins and bike racks.
    - 3. Pedestrian lighting.
  - e) All developments are required to have underground utilities, public sewer and water meeting the requirements of the Portland Water District.
    - 1. The Planning Board may grant a waiver for the requirement of the extension of public sewer if the lot is located greater than four hundred (400) feet from the nearest connection to a public sanitary sewer and the connection to the public sanitary sewer would cause an undue hardship to the developer, as determined by the Planning Board.

2. The Planning Board may grant a waiver for the requirement of the extension of public water if the lot is located greater than six hundred (600) feet from the nearest connection to public water and the proposal meets the Determination of Unreasonable Costs under Chapter 2, Section 2-Provision of Public Water Supply, d. Exemption from Public Water Supply Requirements.
- f) A buffer shall be established between the multi-family housing and any abutting single family or two-family dwellings. The buffering shall be sufficient to minimize any kind of potential nuisance, such as, but not limited to, headlights, noise, storage areas. The buffering shall consist of landscaping, fencing, grading or a combination of features
1. A developer is required to submit a detailed plan and specifications by a professional designer for landscaping and screening which will afford a degree of buffering and screening to meet the standard.
  2. Screening of refuse facilities: Uses within the development shall provide secure, safe, and sanitary facilities for the storage and pickup of refuse. Such facilities shall be convenient to collection and shall be appropriate to the type and size of the use being served. All refuse storage facilities shall be screened by a solid wall, fence, tight evergreen hedge, or combination of the above. Such screening shall be of sufficient height and design to effectively screen the facility from the view from adjacent residential uses and streets and from adjacent properties.
  3. Maintenance of landscaping: All required landscaping and screening shall be maintained or replanted by the owner of the parcel(s) as necessary so as to continue its effectiveness.
- g) Sidewalks within the development are required to allow pedestrian connections to structures, amenities, and/or prominent natural features within the development and the existing sidewalk network.
1. The applicant may request a waiver from the full off-site sidewalk extension as outlined under Chapter 2, Section 2-5, F, 11 Sidewalks.
- h) Driveways, private ways, and public streets shall be designed to effectively and safely handle the anticipated traffic volumes proposed for the development both on and off the site
1. Entrances shall be combined to the maximum extent possible.
  2. For lots with frontage on both a public street and another street the access drives shall be located off the street of lower classification unless the Planning Board finds that no safe alternative exists.
  3. All roads that will be dedicated to the Town for public use shall meet the standards for public roads contained in Section 2-5 Minimum Standards for the Design and Construction of Streets and Ways.
  4. All private roads, drives or access ways shall also meet the standards for private roads contained in Section 2-5 Minimum Standards for the Design and Construction of Streets and Ways.
- i) All off-street parking and lighting must be adequately screened from view of public ways and from adjacent lots by buildings, topography, fencing or landscaping of reasonable opacity and at least four (4) feet high.

1. In districts that allow parking to the front of the building the parking lots between the front wall of any building and the street shall be limited to one row of parking spaces, the access driveway, and walkway into the buildings
2. All other parking shall be located to the side and rear of the building.

C. ACCESSORY APARTMENTS

Accessory apartments is a permitted use in all zoning districts which allow single-family dwelling or a lot where a single-family exists, subject to the approval of the Code Enforcement Officer and adherence to the following standards:

1. The owner(s) of the lot must reside in the principal structure or in the accessory apartments.
2. The number of occupants of any accessory apartment is limited to two.
3. Accessory apartment shall contain up to a maximum of 800 square feet of living space and shall not be less than 190 square feet in area.
4. a. Accessory apartment on a lot with the ability to connect to public sewer shall be served by public sewer unless the Portland Water District (PWD) determines that there is not capacity in the sewer main or treatment facility. The PWD sewer connections shall meet the following requirements.
  - 1) The proposed accessory apartment is connected to the primary residence. In this scenario, the accessory apartment may be connected to the primary residence internal PWD sewer lateral to the primary residence
  - 2) The proposed accessory apartment is a separate standalone building: In this scenario, a separate and independent PWD sewer lateral will be provided to serve the accessory apartment. The detached accessory apartment and the single-family house shall have independent connections from each structure to the PWD's sewer main. The independent sewer laterals will be provided from both buildings with a connection of the two laterals into a sewer manhole at the property line. The sewer manhole may be placed on the existing sewer lateral from the single-family residence with the accessory apartment sewer lateral being fed into it.
- b. For a lot without the ability to connect to public sewer, the septic systems on the lot in question shall be functioning properly at the time of application and shall be sufficiently designed to meet the new anticipated capacity required under all State and local regulations for septic systems.
  - 1) For accessory apartment attached to the existing single-family dwelling, if expansion of the septic system is required to meet the increased flow from the accessory apartment, the applicant shall submit an HHE-220 form to the Code Enforcement Officer for review and approval prior to the installation of the system. Any septic system expansions will need to be completed prior to the certificate of occupancy being issued for the accessory apartment.
  - 2) Accessory apartment detached from the existing single-family dwelling are required to each have a separate and functioning septic system meeting all State and local regulations for septic systems. Clustered systems are prohibited as set forth in the Town of Gorham Waste Water Ordinance, Article IV – Private Wastewater Disposal Systems, Section 7 – Cluster Systems Prohibited.

5. For a lot served by private wells the owner(s) must show evidence that water is potable and acceptable for domestic use prior to issuance of a certificate of occupancy for the accessory apartment.
6. Proper ingress and egress shall be provided to the accessory apartment.
7. Should the owners of lot be found in noncompliance of the standards contained in this section, the noncompliance shall be considered a violation of this code and subject to the fines and penalty section, and the accessory apartment(s) shall be discontinued, and the lot shall revert to single family use.
8. An accessory apartment which complies with the requirements of this subsection shall not be considered an additional dwelling unit when calculating lot area per dwelling unit under the space and bulk regulations of the Code. Accessory apartment is required to meet the setbacks in the zoning district they are located in and if applicable Shoreland zoning requirements.
9. Only one accessory apartments shall be permitted on a lot.
10. Accessory apartments on a lot with the ability to connect to a public water main shall be connected into the public water main unless the Portland Water District determines that there is not capacity in the PWD water main to serve the lot. Accessory apartments being constructed on a lot with public water supply shall provide a PWD ability to serve letter prior to issuance of a building permit for the accessory apartment.

D. MIXED-USE DEVELOPMENTS

- 1) PERFORMANCE STANDARDS FOR GORHAM AND LITTLE FALLS VILLAGS AND URBAN COMMERCIAL DISTRICTS
  - a) The residential density for existing buildings being converted to mixed-use developments constructed prior to 1925 shall be exempt from a base density standard identified under each districts' D. Space Standards provided the below standards c) through i) are met.
  - b) The residential density for new buildings shall meet the requirements of the zoning district in which the parcel is located or the provisions for mixed-use residential density in the Development Transfer Overlay District.
  - c) 90% of the building's first floor shall be utilized for commercial, institutional, or land use other than residential or accessory residential space.
  - d) Residential Dwelling Units Minimum Sizes: The total floor area of a residential dwelling unit shall meet the following minimum standards.
 

1. Studio	400 square feet
2. 1 Bedroom	550 square feet
3. 2 Bedrooms	700 square feet
4. 3 Bedrooms	850 square feet
5. 4 Bedrooms	1,000 square feet
  - e) Parking Requirements: To the greatest extent possible parking shall be located to the rear of the building. The Planning Board may allow parking to the side of the building provided that a plan provided by a licensed landscape architect shows the view from the street and abutting properties has been buffered through the use of landscaping, both plants and hardscape features.
  - f) Developments shall be served by public water and sewer.

- g) The development shall meet all applicable sections of underlying zoning standards outlined under Chapter 1, Zoning Regulations, 2: General Standards of Performance, 3: Subdivision, and 4: Site Plan Review.
- h) Mixed-use developments are exempt from Chapter 2, Section 2-4, B. Performance Standards for Multi-family Housing.
- l) The scale of the development shall be compatible with the development pattern of the area and the desired future form of the area as outlined in the Town's Comprehensive Plan.



## SECTION 2-5 - MINIMUM STANDARDS FOR THE DESIGN AND CONSTRUCTION OF STREETS AND WAYS

### A. PURPOSE

The purpose of this section is to set uniform standards for the design of streets and ways in the Town of Gorham in order to provide for safe vehicular and pedestrian travel and appropriate service to adjacent land.

### B. GENERAL

No street or way shall be laid out and accepted as a public street or way by the Town of Gorham, Maine except in accordance with the provisions of this Section of the Land Use and Development Code.

### C. ACCESS TO ADJOINING LAND

1. The Planning Board shall provide for road continuation, to limit unnecessary curb cuts and/or to provide for street access to adjoining properties by dedication on a subdivision plan, of a fifty-foot wide right-of-way to the boundary of adjacent properties, unless the Planning Board determines it is not in the public interest to require access to adjoining land, the topography is not suitable for access to adjoining land, or the project is surrounded by wetlands and no suitable land is available for continuation. Access to adjacent developed land shall be provided by the dedication on a subdivision plan of a 50-foot right-of-way connecting to previously dedicated rights-of-way.
2. Road connections to adjacent developed land are to be fully constructed at the time of development in subdivisions that are located wholly or partly in the Development Transfer Overlay District, the Urban Residential District or the Village Centers Districts unless the Planning Board determines that fully constructing the road connection is not in the public interest because (1) the road connection will create an unsafe situation for residents of the subdivision or existing neighborhoods due to a substantial increase in traffic volume or speed, or (2) the road connection will result in motor vehicles using the connection as a cut-through to avoid either waits at nearby signalized intersections or the use of neighboring arterial or connector streets. Further, if full construction of the road connection is determined by the Planning Board to have the potential of creating lengths of unoccupied road that, due to their isolated location, may result in maintenance or nuisance issues, including but not limited to illegal dumping, the Planning Board may either waive the construction requirement or allow the street construction to be limited to clearing of the area and construction of the sub base.
3. In a subdivision that has proposed private ways as well as public streets that are proposed to be dedicated to the Town for acceptance, the future road connection rights-of-way shall be established from said public streets proposed to be dedicated to the Town for acceptance.
4. In subdivisions where only private ways are proposed, the subdivision plan does not need to comply with paragraph C1) or C2) above. In the event that a street approved as a private way in the subdivision is later presented to the Town for acceptance as a public street, the road connection right-of-way must be included in a deed to the Town for acceptance at the same time as the street and if the subdivision is located wholly or partly in the Development Transfer Overlay District, the Urban Residential District or the Village Centers Districts, the road connection must be fully constructed prior to street acceptance.

D. DEFINITIONS

For the purposes of this Ordinance certain terms used herein are defined as follows:

1. Arterial Street: A major roadway serving long distance traffic through and between municipalities and carrying traffic to major centers of activity.
2. Collector Street: A principal roadway which conveys traffic between arterial streets.
3. Sub collector Street: A street which is designed to carry traffic between local access streets and collector streets.
  - a) Rural Sub collector - Any sub-collector street located in the Rural District and which is projected to have an Annual Average Daily Traffic volume of between 250 and 1000 vehicles per day shall be designed and constructed the standards required for Rural Sub-collector as presented in Table 1.
  - b) Urban Sub collector - All other sub-collector streets located within a growth area per the Comprehensive Plan or in a subdivision designed to the Development Transfer Overlay District standards shall be designed and constructed to the standards required for an urban-sub collector as presented in Table 1.
4. Access Street: A local street designed to provide access to abutting property and to carry no more traffic than that generated by the uses along the street.
  - a) Rural Access Street - Any access street located in a Rural District which serves less than 25 dwelling units and which is projected to have an Average Daily Traffic volume of less than 250 vehicles shall be designed and constructed to the standards for a Rural Access Street, as presented in Table 1.
  - b) Urban Access Street - All other access streets located within a growth area per the Comprehensive Plan or in a subdivision designed to the Development Transfer Overlay District standards which are classified as access streets shall be designed and constructed to the standard required for an Urban Access Street, as presented in Table 1.
5. Industrial or Commercial Street: A local street which provides access to abutting commercial or industrial properties, the primary function of which is to serve those properties and the development proposed for them.
6. Service Road: A road which primarily serves a facility, complex, business or land not for residential use.
7. Private Way: A minor road which has not been dedicated to the town as a public street or public way, serving no more than six (6) lots with up to maximum of six (6) dwelling units, and which, if it has not been built to public street standards, shall not be accepted as a public street by the Town.
8. Paved Private Way: A minor road which has not been dedicated to the Town as a public street or public way. The Town has two standards for paved private ways: 7-10 dwelling units serving no more than ten (10) lots with up a maximum of ten (10) dwelling units; or twenty-five (25) dwelling units serving no more than twenty-five (25) lots with up to a maximum of twenty-five (25) dwelling units and constructed to the standards for a paved private way, and which, if it has not been built to public way standards, shall not be accepted as a public street by the Town.

- a) 7-10 Dwelling Unit Paved Private Way
    - 1) Paved Private Way – a private way serving between 7-10 dwelling units designed and constructed to the standards as presented in Table 2. Private ways located in a growth area per the Comprehensive Plan or in a subdivision designed to the Development Transfer Overlay District standards shall be designed with a sidewalk.
  - b) 25 Dwelling Unit Paved Private Way
    - 1) Rural Paved Private Way – any rural paved private way located in a Rural District, which serves less than 25 dwelling units and which is projected to have an Average Daily Traffic Volume of less than 250 vehicles shall be designed and constructed to the standards as presented in Table 2.
    - 2) Urban Paved Private Way – all other paved private ways located in a growth area per the Comprehensive Plan or in a subdivision designed to the Development Transfer Overlay District standards, which are classified as 25 dwelling unit paved private ways shall be designed and constructed to the standards required as presented in Table 2.
9. Condominium Driveways: A driveway that provides access from a street, road or way to a condominium development. The driveway is required to be constructed to a private way or public road classification that handles the estimated Average Annual Daily Trips for the development. The driveway does not need to provide for a 50' right-of-way if the lot being developed has the minimum amount of street frontage on an existing public street or private way.
  10. Dead End Streets: A street or private way with a single common ingress and egress.
  11. Access: A public or private point of entry or exit from land adjacent to a public highway or roadway utilized by motorized vehicles, typically described as an entrance or driveway depending on the land use and/or volume of traffic generated by the use.
  12. Access Management: Access Management is the proactive management of vehicular access points to land parcels adjacent to all manner of roadways. Good access management promotes safe and efficient use of the transportation network and maintains the posted speed limit on Arterial and Collector Roadways
  13. Access Point: The intersection of an existing or proposed access with the public right-of-way.
  14. Backage road: Roadways or connections that accommodate entering/exiting traffic at the rear of parcels and provides parcel interconnectivity that reduces entering and exiting traffic from the main street.
  15. Corner clearance: The minimum distance, measured parallel to a highway, between the nearest curb, pavement or shoulder line of an intersecting public way and the nearest edge of a driveway excluding its radii as defined in Chapter 299 Highway Driveway and Entrance Rules.
  16. Double Frontage Lots: A double frontage lot is a parcel of land that has sufficient frontage on two public streets; whereby, minimum corner clearance standards to the parcel can be met based upon Town of Gorham Access Management Standards.

17. Intersection/Entrance Spacing: Intersection/entrance or driveway spacing is the measured distance between access facilities on a roadway. The separation distance is measured from the edge of the proposed street/entrance or driveway to the edge of the existing street/entrance, excluding the corner radii.
18. Maine DOT Defined Compact Area: A section of the highway where structures are nearer than 200 feet apart for 1/4 of a mile, unless otherwise defined in MRS Title 23.
19. Number of Entrances: Access to and from the public right-of-way to a proposed development shall be via a formal entrance. Entrances shall be designed and constructed to accommodate the appropriate level of traffic volumes and design vehicle, and provide for safe and efficient connection to arterials, collectors, and local roads.
20. Parcel Interconnectivity: The ability to enter or exit adjacent properties or parcels without entering or exiting the public highway or roadway system via internal connections between two or more properties or parcels. This can be accomplished by use of "frontage or backage" roads as well as direct connections between adjacent properties or parcels.
21. Shared Entrances: A single entrance or driveway serving two or more developable parcels. A shared driveway may cross a lot line or be on the parcel line, and the owners may have an easement for the shared use.
22. State Highway: All the right-of-way that may have been laid out by the State, county or town as defined by MRS Title 23.

NOTE: Street classifications for multi-family residential or non-residential uses shall be determined by trip generation figures indicated in the most current edition of the Institute of Traffic Engineer's Handbook.

The Town Council shall designate the streets and the Town Engineer shall maintain a list of street designations.

#### E. ACCEPTANCE OF STREETS AND WAYS

A street constructed on private lands by the owner(s)/developer(s) thereof and not dedicated for public travel prior to the date of enactment of this ordinance, (September 2, 1997), may be laid out and accepted as a public street by the Town Council only upon the following conditions:

1. The owner(s) shall give the Town a deed to the property within the boundaries of the street at the time of its acceptance by the Town and a separate deed to areas reserved for the future development of streets.
2. A plan of said street or way shall be recorded in the Cumberland County Registry of Deeds at the time of its acceptance.
3. A petition for the acceptance of said street or way shall be submitted to the Town Council upon a form to be prescribed by the Town Attorney. Said petition shall be accompanied by a plan, profile and cross section of said street or way as follows:

- a) A plan when practical drawn to a scale of 40' to 1", or other suitable engineering scale as approved by the Public Works Director or the Director's designee, and be on one or more sheets of paper not exceeding 24 inches by 36 inches in size. Said plan shall show true and magnetic north, the location and ownership of all adjoining lots of land, passageways, easements, street lights and electric lines, boundary monuments, water ways, and natural drainage courses. Topography will be shown with a contour interval not to exceed two (2) feet, angles, bearings and radii necessary for the plotting of said street and lots necessary for their reproduction on the ground. No street will be accepted until one (1) set of reproducible and three (3) bound paper sets of project record "as built" drawings are provided to the Public Works Director. The plans and profile sheets should reflect design and actual locations and elevations of drainage and sanitary rims and inverts. Contours will be revised to show the finished conditions. Projects having a closed sewer system shall show building services and ties to their connection points and locations at the property lines. Record drawing will be sealed by the design engineer. As-built drawings shall include the following, as a minimum.
  - (i) The cover sheet as signed and approved by the Planning Board.
  - (ii) All sheets, including detail sheets, as found in the approved project set.
  - (iii) The registered subdivision plat.
- b) A profile of said street drawn when practical to a horizontal scale of 40 feet to 1 inch, and a vertical scale of 4 feet to 1 inch, or other suitable engineering scale as approved by the Public Works Director or the Director's designee.
- c) A typical cross section of said street drawn to a horizontal scale of 4 ft. to 1 inch and a vertical scale of 4 ft. to 1 inch.
- d) The location and size of the constructed, in place, drain and sewer lines and roadway ditching in accordance with this Code.
- e) All plans shall include the GPS coordinates.

4. Streets Offered for Acceptance

- a) No street shall be placed on the Town Council's agenda until the Developers Engineer has certified that the streets were constructed in accordance with the specifications of the Town of Gorham's Land Use and Development Code and in accordance with the plans approved by the Planning Board and that "Record Drawings" are accurate and have been stamped by the developer's licensed professional engineer. No street may be placed on a Town Council agenda until:
  - (i) The Public Works Director or the Director's designee has issued a final report that the street is complete and meets the appropriate specifications of the Town's Land Use and Development Code and
  - (ii) The Director of Community Development, after consultation with the Public Works Director or the Director's designee, has determined in writing that there is no outstanding condition or restriction placed on the applicable subdivision plan or other Town-approved plan on

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which the proposed streets or ways have been proposed that have not yet been satisfactorily completed in accordance with the requirements of such plan.

- b) Such report shall include results of at least one (1) core sample from the base course and may include more than one core sample for each street proposed for acceptance as a public street with the core sample and reports paid for by the applicant.
- c) The owner shall warranty all public improvements for a period of one year from the date of acceptance and post a maintenance guarantee per the subdivision ordinance. At the conclusion of the one-year warranty period, the owner shall request the Public Works Director or the Director's designee to prepare a written report of inspection prior to the release of the improvement guarantee, per the requirements of Chapter 3, Section 3-4. C. a. 2.
- d) No street may be accepted unless the Town Council finds that acceptance is in the public interest and complies with the following standards:
  - (i) The street must serve at least 25 lots which is not a dead end street. The street must be part of an interconnected street network that provides at least 2 points of connection to other interconnected streets. The Town Council may waive the interconnected street requirement if the Town Council finds that the dead end street provides access to Town or State property and it is in the public interest to accept the dead end road.
  - (ii) No street may be accepted until certificates of occupancy have been issued for at least 50 % of the housing units on that street in the subdivision or,
  - (iii) In the case of a street in a subdivision for which the Planning Board has formally granted approval for phased construction, until certificates of occupancy have been issued for 50% of the housing units on that street in the phase in question.
- e) The surface pavement shall not be placed until the base paving has gone through one (1) complete winter. The application of a tack coat and/or shim coat to the base may be required by the Public Works Director or the Director's designee, when necessary, to insure appropriate bonding between base and final surface coats of pavement.
- f) Notwithstanding the provisions of any other Section hereof, the Town may at any time lay out and accept any street in the Town of Gorham, Maine, as a public street of said Town whenever the general public interest so requires. The cost of said street may be borne by said Town or may be borne by another party.
- g) Notwithstanding paragraph c) above, a street may be accepted by the Town Council prior to final paving, provided that 150% of the cost of completion, as estimated by the Public Works Director or the Director's designee is deposited in a street improvement account with the Town. Any funds not used shall be returned to the developer upon completion.
- h) Prior to street acceptance, the Town, at its sole discretion, has the right to annually evaluate the condition of the street and the costs associated with

completing the street. The Public Works Director or the Director's designee will estimate said completion costs following the evaluation and recalculate the bonding requirements for the project. The recalculated bonding requirements for the project will be 125% of the total cost of the outstanding construction. The Town will stop issuing permits for the project until the new bonding requirement is established and met. All items contained within the performance guarantee, or each phase of the project, must be completed within 36 months from when the performance guarantee was established. This 36 month deadline may be extended a maximum of 24 months with Town Council review and approval. The Town may require the developer to submit the street for Town Council acceptance within five (5) years of the placement of the street base pavement, or may pull the bonding and complete the street as approved.

5. Streets Offered for Acceptance but Not Accepted

The Planning Board shall require, as a condition of approval for any subdivision application that includes the creation of one or more streets, that the lot owners form a homeowners association by written agreement which shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair, and plowing of the subdivision streets(s) shall remain the responsibility of the homeowners association as provided under that agreement. This homeowners association agreement shall be in a form acceptable to the Town Attorney and, upon approval by the Planning Board of the subdivision, shall be recorded in the Cumberland County Registry of Deeds within ninety (90) days of the date of subdivision approval by the Planning Board.

F. STREET DESIGN STANDARDS - PUBLIC WAYS

Any street or way proposed to be dedicated as a public street or way shall be previously constructed in accordance with the following specifications:

1. All streets shall be designed to conform with the public way standards presented in Table 1 and shown in Figures 1 through 8 unless otherwise agreed to and permitted in writing by the Planning Board. The Planning Board may require design modifications if it finds special provisions to be necessary to protect the public health and safety as a result of a specific development proposal.
2. Street construction materials and methods shall conform to the most current specifications of the Maine Department of Transportation Standard Specifications for Highways and Bridges. The standards and dimensions contained in Table 2 shall be considered minimum.
3. Standards and dimensions contained herein shall be considered as minimum and modifications may be recommended to the Planning Board by the Public Works Director or the Director's designee to meet specific site conditions.
4. Dead End Streets and Streets Providing Sole Vehicular Access.
  - a) Cul-de-sacs and dead end streets that provide the sole vehicular access to improved or improvable land shall be provided with a suitable turning circle or turnaround, as applicable, at the closed end.
    - (1) A hammerhead turnaround shall be constructed and paved



to specified street standards, whether temporary or permanent, for a distance of 50 feet from the roadway edge at ninety degrees (90°) to the street it serves.

- (2) All turning circles shall be paved to specified street standards, and have the following minimum radii:

(a)	Right-of-way	100'
(b)	Outer pavement edge	85'
(c)	Inner pavement edge	65'

- (3) In those Zoning Districts where otherwise allowed by the District, zoning frontage requirements may be reduced in the case of permanent turning circles, where no future road is either feasible or provided for on the plan.

- (4) Temporary turning circles may be allowed where future road extensions are planned if designed to allow discontinuance of the turning circle while not creating any lots with less than the required frontage for the zone in which located.

- (5) Loop roads that provide the sole vehicular access to developable or improved land shall meet the required centerline radii of 150' and minimum tangent distance between curves of 100' and shall be constructed and paved to specified street standards.

- b) Dead end streets, paved private ways and streets except industrial, commercial, or service streets that serve as the sole vehicular access shall not exceed in length a distance of fifteen hundred (1500) feet, as measured along the proposed street centerline, from the ROW line of the intersecting town way to the furthest centerline point of a turning circle or loop road or the terminus of the hammerhead, except that a road constructed after September 1, 2010 may be constructed to any length if all of the dwelling units on said street are to be serviced by a residential sprinkler system that meets the specifications of the Town of Gorham's Sprinkler Ordinance for residential property.

- (1) For purposes of determining road length, public road length and private road length will be added together to determine compliance with the maximum road length, even if they are separate and distinct roads.

- c) Median strips, esplanades, planters and other similar devices which serve to provide a divided street entrance to an approved subdivision or other development shall be no less than twenty (20') feet in width. Any modifications to the Planning Board approved location of landscape materials, signage and other fixtures shall be reviewed and approved in writing by the Town Planner and Public Works Director or the Director's designee prior to installation.

- d) Two way access must be provided at separate entrance points at either end of a loop road and both entrance points must be separated by a minimum distance of 400 feet or the road shall be considered a dead end road.

- 5) Sight Distance - Any intersecting street or road shall be so designed in profile and grading to provide minimum sight distances measured in each direction. Measurement shall be from the driver's seat of a vehicle that is 10 feet behind the curb (or edge of shoulder) line with the height of eye three and one half (3 1/2) feet above the pavement and a height of object of four and one quarter (4 1/4) feet.

The minimum allowable sight distances for all accesses onto all streets and private ways are set forth in Table 1. The Town of Gorham may require up to 50% greater sight distances when at least 30% of the traffic using the driveway will be by larger vehicles.

Table1 – Sight Distance

Posted Speed (MPH)	Sight Distance (Feet)
20	155
25	200
30	250
35	305
40	360
45	425
50	495
55	570
60	645

- 6) Driveways - Driveway placement shall be such that an exiting vehicle has an unobstructed sight distance according to the above schedule. Driveways to corner lots shall gain access from the street of lower classification when a corner lot is bounded by streets of two different classification.
- 7) Street Names - Streets which join or are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate nor bear phonetic resemblance to the names of existing streets within the municipality and shall be subject to the approval of the Town Planner, the Fire Chief and the Chief of Police in that regard.
- 8) Signs - The installation of street name signs and other traffic control signs shall be the responsibility of the developer as directed by the Planning Board and in conformance with the requirements of the Department of Public Works. All signs shall be erected in conformance with the latest edition of the Manual on Uniform Traffic Control Devices (MUTCD).
- 9) Curbs - Curbing shall be required wherever on-street parking is allowed or anticipated and where grades require that storm water drainage be channeled along the curb line to avoid shoulder erosion.
- 10) Utility Easements - The Planning Board shall require easements for sewers, storm drains, public water supplies, other utilities and stream protection. Utility easements in general shall not be less than twenty feet in width and in specific cases may require increased width, as recommended by the Public Works Director or the Director's designee.
- 11) Sidewalks - Sidewalks shall be provided within all subdivisions in the Village Center, Urban Commercial, Commercial Office, Office Residential, and Urban Residential Districts, and for all subdivisions located within the Development Transfer Overlay District that conform to the overlay district

requirements, with connection to the existing sidewalk network provided for the safety and convenience of the residents, per the standards in Table 1 and Figures 1, 2, 3 and 5. The sidewalk location in figures 1, 2, 3 and 5 is preferred; however, it may, at the discretion of the Planning Board, be positioned at curb line with zero esplanade. Sidewalks may also be required in subdivisions which abut any of the above Districts.

The requirement for off-site sidewalk extension in the Urban Residential District shall be modified by the Planning Board provided the following conditions are met:

- a. The cost for off-site sidewalks exceeds a cost of \$5,000 per dwelling unit. The number of dwelling units used in the calculation shall be based on the maximum number of dwelling units allowed on the parcel as identified under the Urban Residential District Space standards.
- b. In place of a full sidewalk extension as required in subsection 11, the applicant is required to extend the nearest sidewalk the following lengths towards the proposed development:
  - (1) For roads with existing closed drainage systems and curbing the applicant shall extend the sidewalk 200' for each proposed dwelling unit in the development.
  - (2) For roads without existing closed drainage systems and curbing the applicant shall extend the sidewalk 100' and close in the drainage system for each proposed dwelling unit in the development.
  - (3) For existing public roads with sidewalks in poor condition as determined by the Public Works Director or his designee, an applicant can request that half of the required extension be utilized to repair the existing sidewalk network on a foot by foot exchange.

Sidewalks may also be required, for the safety and convenience of the public, by the Planning Board or Site Plan Review Committee for major and minor developments located along arterial and collector streets and which are within reasonable distance of the existing sidewalk network.

Sidewalks, when required, shall be a minimum of five (5) feet in width, unless site conditions dictate a different width.

- 12) On-Street Parking - In determining travel way width and layout, the Planning Board may require on street parking in any District where the minimum street frontage is less than 200 feet.
- 13) Street Trees - One street tree shall be planted on both sides of a street for every fifty (50) fee of street frontage within all subdivisions located within the Development Transfer Overlay District that conform to the overlay district requirements. The type and location of the trees shall be subject to Planning Board approval in accordance with the provisions of A. 6) of

Chapter 2. Section 2-4 – Residential. The preferred location of the street trees is within the esplanade or immediately behind the sidewalk either within the street right-of-way or on the individual lots.

G. STREET CONSTRUCTION STANDARDS AND SPECIFICATIONS

- 1) Roadway construction materials standards shall conform to the current "State of Maine Department of Transportation Standard Specifications Highways and Bridges."
- 2) The Standards and Dimensions contained in Table 2 shall be considered minimum.
- 3) An adequate storm drainage system, including appurtenances such as manholes, catch basins, culverts, ditch lines, detention facilities, outlets, etc., shall be provided as specified by the Public Works Director or the Director's designee and approved by the Planning Board. Appropriate conveyances for outlets to drainage systems must be provided. Minimum easement widths of 30 feet shall be required.
  - a) Drainage requirements shall be based on a 25 year 24-hour storm frequency unless the Public Works Director or the Director's designee specifies for cause that a larger storm be used for design purposes.
  - b) Upstream drainage and development potential shall be considered for each project.
  - c) Effects upon downstream drainage facilities and waterways shall be considered as required by the Public Works Director or the Director's designee. Overloading downstream facilities shall not be permitted.
  - d) Open storm water shall not surface run more than 250 feet along any street gutter. No storm water shall drain across a street or intersection.
  - e) Design standards for drainage systems shall be subject to review and approval of the Planning Board. Minimum pipe size for any storm drain pipe shall be 12 inches.
  - f) Where subsurface soil conditions warrant, an under drain system shall be installed and discharged in a positive drain.
- 4) Construction.
  - a) Engineering Work: All engineering work, including the setting of grade stakes necessary for the construction of the street and sidewalks, and storm sewers shall be performed by the developer at his or her expense.
  - b) Underground Utilities: Any sewers and appurtenances, drains, including house drains and catch basins which are to be built in the street or sidewalk, and all underground utilities and their respective services shall be constructed before any road material is placed.
  - c) Grading: All streets, roads, walks, etc. shall be graded to their full

width by the Developer (Subdivider) so that pavements and sidewalks can be constructed on parallel profiles.

- d) Preparation: Before grading is started, the entire right-of-way area shall be cleared of all stumps, roots, brush and other objectionable material and all trees not intended for preservation, as designated by the Public Works Director of the Director's designee.
- e) Cuts: Tree stumps and other organic materials shall be removed to a depth of 2 feet below the sub grade. Rock and boulders, when encountered, shall be removed to sub grade.
- f) Fill: All material used in the construction of embankments shall be of the quality to meet the standards for embankment construction, Sections 203.02 through 203.17 of the Maine Department of Transportation Standard Specifications, except that compaction shall not be less than 95% of maximum density (per ASTM D 1557 Mod.). Excess materials including organic materials, soft clays, wet and non-compactable materials, etc. shall be removed from the street site. The fill shall be spread in layers not to exceed 8 inches loose and then compacted. The filling of utility trenches and other places shall be mechanically tamped.
- g) Side Slopes: All side slopes shall not exceed a slope of 3 horizontal to 1 vertical unless shown otherwise on typical cross sections in Figures 1 through 9.
- h) Bases and Pavement: The appropriate sections of the Bases and Pavements Divisions of the Maine Department of Transportation Standard Specifications currently in effect at the date of submission of the preliminary plan shall be applicable to this section except as follows:

#### Bases

- (1) Aggregate Sub-base Course - Gravel Aggregate Sub-base shall not contain particles of rock exceeding 4 inches in any dimension.
- (2) Aggregate Base Course - Crushed Aggregate base shall not contain particles of rock that will not pass the 1 1/2-inch square sieve.

#### Pavement

- (1) Where pavement placed joins an existing pavement, the existing pavement shall be cut along a smooth line and to a neat, even, vertical joint. Broken or raveled edges will not be permitted, nor deviation from grade. A tack coat shall be applied to all joints prior to placement of new pavement.
- (2) Bituminous Asphalt intended for placement as base or wearing roadway course shall be an approved MDOT mix. Mix designs will be provided to the Public Works Director or the Director's designee, for approval, prior to placement. Unless otherwise submitted and approved, Bituminous

Asphalt Cement base and wearing course shall meet the following specifications

- a) Surface: "C" mix or HMA 9.5 mm – dense graded
- b) Base: "B" mix or HMA 19.0 mm – dense graded
- (3) Placement of bituminous pavement will be subject to calendar and temperature limitation as specified in the MDOT Standard Specifications Section 401.06 Weather and Seasonal Limitations for b. Zone 2 or with the approval of the Public Works Director.
- (4) Core samples of the base pavement will be conducted at the direction of the Public Works Director or the Director's designee and the cost of the coring will be paid for by the applicant.
- (5) Where the average coring thickness of base pavement is less than that specified in Table 2 (minimum standards and dimensions) the shortfall will be calculated and the resultant tonnage will be added to the specified wearing course depth in accordance to the correction table as follows:

#### **BASE PAVEMENT CORRECTION TABLE**

Average Coring Thickness	Corrective Action
1 ¾ inch – 2 ½ inch (up to ¾ inch deficient)	Calculated tonnage of pavement deficiency will be doubled and added to the specified overlay.
1 ¾ inches or less	Additional "2 inch" lift of base pavement will be the standard corrective action. However, the Public Works Director may require additional corings (the number will be determined by the Director of Public Works) which will be evaluated, by a MDOT certified lab, for gradation, % bitumen, and compaction at the applicant's expense. After an analysis of results, the Town may require the initial base pavement to be removed and a new base pavement placed in accordance with appropriate specifications.

- i) Curbing: The following curbing materials shall be allowed, subject to the recommendation of the Public Works Director or the Director's designee:

- (1) Granite Curb - Type 1
- (2) Precast Concrete Curb - Type 2
- (3) Bituminous Curb - Type 3
- (4) Cape Cod Berm

All curbing shall be done per Section 609 of the Maine Department of Transportation Standard Specifications, except as follows:

- (1) Granite curbing shall be provided at all street intersections with radii less than 50 feet where curbing is proposed or required. All other areas with greater than 50 feet radii will be evaluated as site conditions dictate. A minimum reveal of 7" shall be required.
  - (2) Precast concrete curb, Type 2, shall be installed with a minimum reveal of 7".
  - (3) Bituminous concrete curb, Type 3, a minimum reveal of six inches shall be required.
  - (4) Cape Cod bituminous curbing may be utilized in lieu of other curbing when approved by the Public Works Director or the Director's designee.
- j) Sidewalks: Section 608 of the State of Maine Department of Standard Specifications shall apply. Aggregate to build new sidewalks shall meet the requirements of Section 703.06(a) Aggregate Base and Subbase, Type B.
- k) Driveways: All driveway aprons shall be paved with four (4) inches of bituminous concrete. The paved apron will extend from the edge of the existing roadway edge and will extend to the limit of the public right of way. Paved aprons will be a minimum of 12 feet in width having five (5) foot radii, minimum.
- 5) Storm Drain Construction Standards - The following material shall be utilized for storm drain construction, except new material may be substituted with the approval of the Public Works Director or the Director's designee.
- a) Reinforced Concrete Pipe: Reinforced Concrete Pipe shall meet the requirements of ASTM Designation C 76. Pipe classes shall be as required to meet soil and traffic loads with a factor of safety of 1.2 on the .01 inch crack strength with a Class B bedding. Joints shall be of the rubber gasket type meeting ASTM Designation C 443-70, or of an approved performed plastic jointing material such as "Ramnek".
  - b) Polyvinyl Chloride: PVC Gravity Sewer pipe shall meet the requirements of ASTM Designations D-3-34-73-SDR35.
  - c) Corrugated Polyethylene Pipe: Corrugated Polyethylene Pipe shall meet the requirements of ASTM F405 and ASTM F667.
  - d) Under drain Pipe: Under drain Pipe may be Polyvinyl Chloride or Corrugated Polyethylene meeting similar requirements to that of standard drain pipe.
  - e) Bituminous Coated Corrugated Metal Pipe - Type II Aluminum: Bituminous Coated Corrugated Metal Pipe shall meet the requirements of AASHTO M 190.
  - f) Drain Manholes: Manholes shall be of precast concrete section construction. Precast sections shall meet the requirements of ASTM Designation C-478. Cones shall be truncated. Castings shall be of cast iron meeting Sanitary District standards for sewer construction. Brick inverts shall be shaped to the crown of the pipe for sizes up to 18 inches, and to spring line for larger pipes.

- g) Catch Basins: Catch Basins shall be of precast concrete construction. Castings shall be square cast iron as required for the particular inlet condition with the grates set perpendicular to the curb line. All catch basins shall be provided with a Type I curb face inlet.
  - h) Sanitary Sewers: Sanitary sewers shall be required per the Town of Gorham Wastewater Ordinance and be designed and constructed to the requirements of the Superintendent of Sewers and the Portland Water District.
- 6) General Construction Requirements.
- a) Trenching - All trenching shall be accomplished in accordance with all appropriate state and federal safety requirements.
  - b) Minimum trench width at the pipe crown shall be the outside diameter of the pipe, plus 2 feet.
  - c) Pipe shall be bedded in a granular material with a minimum depth of 6 inches below the bottom of the pipe and extending to 6 inches above the top of the pipe. When water is present in the trench, pipe shall be bedded in crushed stone.
  - d) Drain alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvi-linear drain is obtained in writing from the Public Works Director or the Director's designee.
  - e) Manholes or catch basins shall be provided at all changes in vertical or horizontal alignments, and at all junctions. Except in the case of individual house services, pipe to pipe connections are not allowed. On straight runs, manholes or catch basins shall be placed at a maximum of 300-foot intervals.
  - f) Catch basin leads shall enter the drainage system at manholes only. The difference in elevation between the inverts of the lead and the main drain shall not exceed 12 inches.
  - g) All drain outlets shall be rip rapped to prevent erosion. Facilities for energy dissipation shall be provided.
  - h) Under drains shall be laid with perforation down with a backfill consisting of graded concrete sand.
- 7) Monumentation - The right-of-way lines of streets to be accepted shall be marked with granite monuments sufficient to reproduce the right-of-way; or where ledge is present, iron pins may be installed with the prior approval of the Public Works Director or the Director's designee.
- a) Granite monuments or concrete monuments shall be 5 inches square and shall be 4 feet long minimum, with a flat top set at all street corners and at all points where the street line intersects the exterior of the subdivisions and at angle points and points of curve in each street. The top of the monument be drilled with washer and spike set so that it may be located by a metal detector. Monuments shall be set flush with the finished grade on lawns and be raised 6 inches in wooded or undeveloped areas.



- b) All other lot corners shall be marked with iron pipe or rod not less than 3/4 inches in diameter and 36 inches long set flush with the finished grade.
- 8) Storm water Drainage System Plans - All storm water drainage designs shall be prepared by professional engineer registered in the State of Maine. Plans shall show the plan profile, cross sections and details of appurtenances. No construction shall be permitted until the Public Works Director or the Director's designee has reviewed and approved the proposed storm water drainage plans. The developer is responsible for obtaining all other permits and approvals which are required prior to construction. Upon completion of construction and prior to acceptance of any street, a final set of reproducible record drawings and 3 sets of paper "as built" record drawings of the Storm Water Draining System Plans will be incorporated into the project drawing and a final set of as-built prints shall be delivered to the Public Works Director or the Director's designee.
- 9) Public Water Supply and Fire Protection - When required by Chapter 2, Section 2-9, a water main of at least 8 inches in diameter must be installed for the use of buildings, residents and occupants of the street to be accepted. The Chief of the Gorham Fire Department must certify in writing that the installed water main will provide adequate fire protection. It shall be the policy of the Town to require installation of fire hydrants as may be deemed necessary for fire protection with the installation of the water main.

#### H. STANDARDS FOR ACCESS MANAGEMENT

- a) Corner Clearance - The minimum corner clearance for all streets, entrances and/or driveways on Compact Classified Arterials and both major and minor collector roadways must be 100-feet for un-signalized intersections and 125-feet at signalized intersections except at no time will a street, entrance or driveway be located on the radius of the two intersecting roadways. The minimum corner clearance on all local (both private and public roadways) shall be 75-feet.

- b) Double Frontage Lots - The preference is for access to be provided at the lower classified roadway. In addition, the following shall be confirmed:

Where a site has frontage on two or more streets on all Compact Area Arterial, Major and Minor Collector roads, access to the proposed site will be from the lower classification of street unless the higher classification of street has less potential for traffic congestion and for hazards to both vehicle traffic and pedestrians. A traffic analysis, whose scope is defined by Town Staff, will be required to determine the preferred frontage for access. For developments with significant traffic volumes of 50 or more peak hour trips, access to both frontages will be considered based upon a detailed traffic study clearly demonstrating traffic safety and congestion benefits will result.

Maine DOT's Entrance and Driveway rules apply to all Non-Compact Roadways; Maine DOT's Region 1 office shall be consulted for these classified roadways.

- c) Intersection/Entrance Spacing - Any street, entrance or driveway located on all arterial and major collector roads shall be separated from any other existing or proposed street, entrance, or driveway in accordance with the following table. (The proposed access shall also consider the existing location of streets, entrances and driveways across a road or highway and meet the same standards)

<u>POSTED SPEED IN</u> <u>(MPH)</u>	<u>SEPARATION</u> <u>DISTANCE</u> <u>(FEET)</u>
<u>25 OR LESS</u>	<u>90</u>
<u>30</u>	<u>105</u>
<u>35</u>	<u>130</u>
<u>40</u>	<u>175</u>
<u>45</u>	<u>265</u>
<u>50</u>	<u>350</u>

The Planning Board may relax these standards only upon finding, based upon a traffic study, that the location of the street, entrance or driveway closer than these minimum standards is necessary for effective utilization of the site or provides an opportunity for sharing access with an adjacent parcel reducing the total number of required site access openings and will not cause unreasonable congestion and safety hazards.

- d) Shared Entrances - The Planning Board shall consider, where feasible, opportunities for shared entrances and driveways between adjacent parcels on all arterial and major collector roadways. The Planning Board may require the performance of a traffic study to determine if the proposed single entrance or driveway access serving two or more parcels improves roadway safety and congestion.
- e) Parcel Interconnectivity - The Planning Board shall consider, where feasible, opportunities for direct connections between parcels or the use of "frontage or backage" roads between adjacent parcels on all arterial and major collector roadways. The Planning Board may require the performance of a traffic study to determine if the proposed interconnection of two or more parcels improves roadway safety and congestion.

New developments shall consider and plan their sites to allow for future parcel interconnectivity via one of the methods described above and can be required to provide parcel interconnectivity with an adjacent existing parcel via an easement. Planning Board shall consider requiring a new development to provide their half of a direct parcel connection if an agreement to complete a full connection cannot be made with the adjacent parcel, or money can be held in escrow to make the improvement in the future.

A detailed traffic study may be required to determine the appropriate type of parcel interconnectivity and design that will provide optimal traffic operations and safety.

- f) Number of Entrances - New developments with connections to applicable roadways in section "g" will be allowed one primary entrance that meets the Town Standards. The Planning Board shall consider opportunities for shared entrances and parcel interconnectivity where feasible to reduce the number of curb-cuts on arterial and collector roadways.

- g) New developments generating 50 or more peak hour trips may be allowed a secondary entrance, or two one-way entrances. A formal traffic study, defined by the Planning Board and Town Staff, shall determine justification for the additional entrance(s).

The Planning Board shall consider restrictions of movements to proposed entrances where it can be shown through a traffic study that safety concerns warrant it.

- h) Access Management Applicable Roadways - The Access Management Regulations for the Town of Gorham shall apply to the following roadways:

Route 114 (Arterial)

Route 25 (Arterial)

Route 202 (Arterial)

Route 22 (Arterial)

Route 237 (Arterial)

Route 112 (Arterial)

Brackett Rd. (Collector)

New Portland Rd. (Arterial)

Day Rd. (Collector)

McLellan Rd. (Collector)

Flaggy Meadow Rd. (Collector)

North Gorham Road (Collector)

Wilson Road (Rural Sub-Collector)

Dunlap/Plummer Road (Rural Sub-Collector/Collector)

Libby Ave (Collector), Excluding Libby Ave from Rte. 202 to end.

Huston Road (Collector)

Wescott Road (Rural Sub-Collector), Between Rte. 114 and Plummer Road

Spiller Road (Collector)

Dingley Spring Road (Collector)

Wood Road (Rural Sub-Collector)

Deering Road (Collector)

Burnham Road (Collector)

Mitchell Hill Road (Collector)

Saco Street (Collector)

Bartlett Road (Industrial/Commercial)

Middle Jam Road (Rural Sub-Collector)

Queen Street (Rural Sub-Collector), Between Rte. 202 & Rte. 237

## I. STANDARDS FOR PRIVATE WAYS

The Planning Board may approve the use of private ways to provide access to individual lots of land provided that the following conditions are met:

- 1) An approved private way may serve a combination of dwelling units/lots identified below:

1 lot gravel private way – 1 lot with a single family house  
2-6 gravel private way – up to 6 lots, with no more that 6 total dwelling units  
served by the private way  
7-10 paved private way – up to 10 lots, with no more than 10 total dwelling units  
served by the private way  
25 dwelling unit paved private way – up to 25 lots, with no more than 25 total  
dwelling units served by the private way

- 2) A plan showing the private way shall be prepared by a registered land surveyor. The plan shall be drawn in permanent ink on permanent transparency material and shall be sealed by the registered professional engineer preparing the plan. The plan shall be labeled "Plan of a Private Way" and shall provide an approval block for the signatures of a legal majority of the Planning Board, the date of approval, and the words, "Private Way, Approved by the Town of Gorham Planning Board". The plan shall show information sufficient to establish on the ground the exact location, direction, width and length of the private way. In addition, a street plan, profile and cross section prepared in accordance with Chapter 2, Section 2-5.E.3 shall be submitted for each private way. The plan shall also contain a note which shall read, "The Town of Gorham shall not be responsible for the maintenance, repair, plowing, or similar services for the private way shown on this plan, and if the private way has not been built to public way standards, the Town Council will not accept it as a public way. The original plan(s) shall be recorded in the Cumberland County Registry of Deeds within 30 days of signing by the Planning Board. If the plan is not recorded within this period, the approval of the Planning Board shall be void.

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- 3) If a private way provides access to 2 or more lots, a maintenance agreement, or in the case of a subdivision, a homeowners' association declaration and bylaws, shall be prepared for the lots accessed by any private way. This agreement or homeowners' association declaration and bylaws shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair and plowing of the private way. This agreement or homeowners' association declaration and bylaws shall also specify that the Town of Gorham shall not be responsible for the maintenance, plowing or repair of the private way. This agreement or homeowners' association declaration and bylaws, upon approval by the Planning Board, shall be recorded in the Cumberland County Registry of Deeds within 30 days of approval by the Planning Board.
- a) The parties in a private way agreement or the homeowners' association shall be responsible for maintenance of the private way, including winter maintenance. Maintenance shall be sufficient to allow the safe passage of vehicles, including emergency services vehicles. In the event the private way is not sufficiently maintained to support the passage of emergency services vehicles, the Town shall so notify the parties to the private way agreement or the homeowners' association, which shall be responsible for causing such repairs or maintenance as are necessary to allow safe passage of vehicles.

- 4) Private ways shall have a minimum right-of-way width of 50 feet and a paved apron 20 feet in length commencing at the existing edge of pavement where it intersects with the private way.

The paved apron shall be constructed to the following standards:

- a) 9" of MDOT Spec. 703.06 Type E;
- b) 12" of base gravel MDOT Spec. 703.06 Type D;
- c) 3" of 1 1/2" crushed gravel, Type A or reclaimed;
- d) a minimum of 4" of paved surface, or greater as specified by the Town Engineer;
- e) a negative 2.0% grade from the existing edge of pavement to an appropriate drainage way, but in no case less than 5 feet from the travel surface of the public way it intersects;
- f) approach radius shall be specified by the Town Engineer.
- 5) Private ways shall be designed to meet the following requirements:
- a) Private Ways shall meet the standards presented in Tables 2 and 3 and the typical cross sections depicted in Figures 9 and 10.
- b) Private Ways will not cause congestion or unsafe conditions with respect to use of the highways or public roads, existing or proposed on or off site.
- 6) Private ways while under construction may be monitored and inspected by the Town Engineer, or a representative designated by the Town Manager or at the Town's option, a registered professional engineer hired by the Town at the developer's expense per the requirements of Chapter 2, Section 2-5, Subsection I.

Notwithstanding the above, prior to the issuance of the first occupancy permit for any of the lots served by the private way, the Developer's licensed professional

engineer shall certify to the Code Enforcement Officer that the private way is passable for vehicular use including public safety vehicles in accordance with this section and the approved Private Way Plan. For paved private ways, the private way base pavement is required to have been placed prior to issuance of the first certificate of occupancy permit. For gravel private ways, the gravel private way is required to have all its type D aggregate sub-base course installed and properly compacted.

Prior to the issuance of the last occupancy permit for a lot served on the private way the following shall be completed:

- a) All the improvements including monumentation for the private way and/or subdivision improvements have been completed per the approved plans.
  - b) The submission of the final as-built drawings meeting the requirements under Chapter 2, Section 2-5, I, § stamped by the developer's licensed professional engineer.
- 7) To help recover costs incurred by the Town in the review, administration, site inspection, and public notice associated with the private way application, the following fees and deposit in such amount(s) and for such purpose(s) as the Town Council may from time to time establish by Council order shall be paid by the applicant to the Town of Gorham at the time of filing the private way application:
- a) Publishing and public notice fee;
  - b) Application fee; and
  - c) Independent consulting and peer review escrow account to be established with the Town in accordance with Chapter 2, Section 2-9 of this Code.

All fees shall be non-refundable except unexpended escrow deposits, which shall be refunded in accordance with Chapter 2, Section 2-9, Subsection B of this Code. If a private way application is also subject to subdivision review, site plan or municipal review under any other ordinance, the applicant shall pay only the larger fee amount exclusive of escrow deposit.

- 8) Notwithstanding other provisions of the Code to the contrary, no gravel surfaced private way shall provide access to or serve in any way to provide compliance with the requirements of the Code for more than the greater of six lots or six dwelling units; provided; however, nothing in this paragraph 8) shall serve to limit the use of such private way for occasional use by and for agricultural purposes.
- 9) The land area of the private way may not be used to satisfy the minimum lot area requirements for any lot (whether the lot(s) to be served or any front lot over which the private way runs).
- 10) The Planning Board shall have the ability to require improvements to both public roads and private ways serving any proposed private way to ensure off-site access is suitable to serve the proposed private way.

J. SUBDIVISION, PRIVATE WAY AND SITE CONSTRUCTION MONITORING OF PUBLIC IMPROVEMENTS

- 1) Grading or construction of roads, grading of land or lots, or construction of buildings which require a final plan as provided in Chapters 2, 3, or 4 of this code is

prohibited, until

- a) the final plan has been duly prepared, submitted, reviewed, approved and endorsed.
  - b) the original copy of the final plan so approved and endorsed by the Planning Board is duly recorded in the Cumberland County Registry of Deeds;
  - c) the Town's engineer has evaluated and verified the estimated costs of improvements;
  - d) an escrow account for field inspection and compliance work equivalent to two and one-half percent (2.5%) of the estimated cost of improvements is established with the Town Planner by the Developer to guarantee payment in advance of actual fees assessed pursuant to this Section; and
  - e) a performance guarantee in the form of a bond, letter of credit, irrevocable letter of credit, and such equivalent to the estimated cost of improvements is evaluated and accepted by the Town Manager.
- 2) If the balance in the escrow account is drawn down by seventy-five percent (75%), the Developer is required to place an additional amount in escrow to cover the remaining inspection and compliance work. Such monitoring will not in any way hold the Town liable for quality of improvement(s). All grades, materials, engineering and construction techniques are the responsibility of the Developer.
- 3) Any excess amount deposited with the Town in advance will be promptly refunded when it is determined that the work has been completed to the satisfaction of the Town after receipt of as-built record drawings.
- 4) If the Town's Engineer finds, upon inspection of the improvements performed before expiration date of the performance guarantee or bond, that any of the required improvements have not been constructed in accordance of plans and specifications filed by the developer, he shall so report to the Town Manager. The Town Manager shall then notify the developer and, if necessary, the bonding company or other financial institution providing the performance guarantee, and take all necessary steps to preserve the Town's rights under the bond or guarantee. The Town shall issue no final Certificate of Occupancy for the project until (1) all monitoring fees are paid in full, (2) all required improvements have been constructed in substantial accordance with the approved plans and specifications.

Prior to issuing the final certificate of occupancy within a subdivision or lots located on a private way, the Developer must submit an accurate final set of "as built" record drawings stamped by the Developer's licensed professional engineer that include:

- a. public streets and/or private ways and sidewalks;
- b. all utilities, including but not limited to, water systems, sewer systems, and electrical systems;
- c. all fire ponds;
- d. all drainage structures; and



- e. any work items designated by the Planning Board as a public or quasi-public improvement.
- 5) If at any time before or during the construction of the required improvements the developer demonstrates to the satisfaction of the Town's Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Town's Engineer may authorize modifications, provided that these modifications are within the spirit and intent of the Planning Board's approval, that they do not materially affect the criteria and standards employed by the Planning Board during its review, and that they do not substantially alter the function of any public improvements required by the Board.

## SECTION 2-6 – CAMPGROUND OVERLAY DISTRICT - ESTABLISHMENT

A campground may only be established or expanded within the Town's Campground Overlay District.

- 1) Land Area. A campground may not be constructed on less than 5 acres of land.
- 2) Camp Site Area. Each area proposed for a tent site or parking space for a travel trailer, pick-up camper, motorized camper, or tent trailer must contain at least 2,500 square feet.
- 3) Firepit. Each campsite must be provided with a masonry or metal firepit approved by the Fire Chief.
- 4) State Law. In all other regards, the applicant shall observe the provisions of State Law governing campgrounds.
- 5) License and Permit. The licensing and permit issuance and requirements shall be the same as the regulations pertaining to mobile home parks licensing in the Mobile Home Park Ordinance.
- 6) Campgrounds shall be closed from November 1 of one year to April 14 of the following year. During such time, no person shall occupy any campsite and the water and electrical service to all campsites shall be turned off or disconnected.
- 7) There shall be a buffer strip of at least 25 feet in width adjacent to all lot lines and any of the campsites or facilities shall be adequately screened from the view of any abutting residential property.
- 8) All utilities (electrical, water, telephone, and cable) shall be installed underground in accordance with Land Use Code Chapter 2-10 Section 2-10A "Provision of Underground Utilities".

## SECTION 2-7 - INSTALLATION OF MANUFACTURED HOUSING UNITS

The following standards shall apply to the installation of any manufactured housing unit on a residential lot and shall be met prior to the issuance of an occupancy permit for the occupancy of the unit. The Code Enforcement Officer may approve the delay of the landscaping until the growing season for units occupied between November and May.

- 1) The wheels, axles, detachable transporter unit and tongue shall be removed and the unit shall be placed on a permanent foundation.
- 2) The foundation shall comply with the requirements of the Town's Building Code for residential structures. At a minimum the foundation shall consist of a frost wall extending a minimum of four feet below the finished grade. The frost wall shall be a solid or mortared masonry wall completely surrounding the perimeter of the unit and having a bulkhead, two opening windows and a 3-inch concrete floor. The minimum distance between the bottom of the floor joist and the top of the concrete floor shall be at least three (3) feet.
- 3) The exterior plumbing shall comply with the Maine State Plumbing Code.
- 4) The exterior electrical connections shall comply with the National Electrical Code.
- 5) The unit shall be sited on the lot so that the acute angle between an imaginary line running parallel to the short axis of the unit and the front property line of the lot for the chord connecting the two points where the side lot lines meet the front line if the front property line is curved) is not less than 30 degrees. This requirement shall not apply if the width of the front building face is more than 24 feet. The width of the front building face shall include the width of the manufactured housing unit plus the width of any permanent addition which meets the following criteria.
  - a) The addition is of a similar architectural design and constructed of similar materials as the manufactured housing unit.
  - b) The addition is permanently attached to the unit to create one integral structure.
  - c) Any living space addition to a manufactured housing unit shall be placed on a foundation similar to the original unit. Any addition other than living space shall have frost wall protection.
- 6) All disturbed areas of the site, not otherwise revegetated, shall be loamed with a minimum of 4 inches of loam, fertilized and seeded.
- 7) All exterior doors shall be provided with steps of a suitable design and construction to provide all-season access.

SECTION 2-8 - BED AND BREAKFAST FACILITIES (INCLUSIVE OF BED AND BREAKFAST, BED AND BREAKFAST ESTABLISHMENT WITH AND WITHOUT PUBLIC DINING FACILITIES, AND INN)

The purpose of this ordinance is to provide opportunity for the entrepreneurial use of existing homes and buildings in Gorham for the purpose of Bed and Breakfast facilities with and without provision for public dining facilities that can be used by other than overnight paying guests of the Bed and Breakfast Establishment. In addition it is the purpose of this ordinance to maintain the existing character of the neighborhood in which a Bed and Breakfast is located. To this end definitions of Bed and Breakfasts, Bed and Breakfast Establishments, Bed and Breakfast Establishments with public dining as an accessory use and Inn have been added to the Gorham Land Use and Development Code Definition Section. Any facility offering overnight accommodations and/or public dining falling outside of the definitions and the limitations of the following performance standards are not governed by this section.

In addition to the performance standards contained in Chapter 2 of this Code, the following requirements shall be placed on Bed and Breakfasts and their accessory public dining uses:

- 1) Parking Requirements- See Chapter 2, Section 2-2.A. Off-Street Parking Standards, Subsection 2.
- 2) No building used as a Bed and Breakfast, Bed and Breakfast Establishment, with or without Public Dining as an accessory use, or Inn shall be expanded by more than 25% in volume or square footage of the building footprint over the lifetime of the building except by Planning Board review to include a peer review by an architect experienced in renovation and expansion of historical and older buildings. Any building expansion of 25% or less in volume or square footage of the building footprint shall be reviewed by the Code Enforcement Officer, who shall determine that it is architecturally consistent with the existing building and neighborhood, and shall also be subject to review by a local Architectural Review Board, from the time such a Board has been established.
- 3) There shall be no expansion of paved areas in the front yard setback for the purpose of commercial parking after the passage of this Ordinance (March 2, 2011) in the Urban Residential, Suburban Residential and Rural Districts.
- 4) No new Bed and Breakfast, Bed and Breakfast Establishment, with or without Public Dining as an accessory use, or Inn shall be established in a building constructed after the passage of this ordinance (August 4, 2009) in the Urban Residential, Suburban Residential and Rural Districts

Any new building constructed in the Office-Residential District, for use as a Bed and Breakfast Establishment must be architecturally consistent with the surrounding structures as determined by architectural peer review (or an Architectural board when established). Any building constructed in the Village Centers or Urban Commercial districts for use as a Bed and Breakfast Establishment or Inn must meet the Village Center Standards. In those districts which allow retail, motels and/or rooming houses as permitted uses, the restriction on Bed and Breakfast Establishments or Inns to buildings constructed prior to the passage of this ordinance shall not apply.

- 5) Additional performance standards applicable to Bed and Breakfast Establishments with Public Dining as an accessory use and to Inns, with the exception of those which are located within the Roadside Commercial, Commercial Office or Narragansett Development Districts.
  - a. The maximum number of persons dining at the establishment is limited to five times the number of overnight guest rooms, subject to applicable building and fire code restrictions. (For example, an establishment with 9 guest rooms would be allowed to have 45 persons in the dining facility at any one time, under this accessory use). This use is considered a commercial use.

- b. Hours of Operation- Public dining hours of operation shall be limited to the hours between 7:00 AM and 10:00 PM in Residential Districts with the last seating commencing no later than 9:00pm. Outdoor dining is restricted to daylight hours.
- 6) Adequate visual buffering shall be provided between adjacent uses where there is a transition from one type of use to another use. At a minimum fencing, landscaping, or natural features shall be used to visually screen service, storage, and parking areas from adjacent properties and public rights-of-ways. The buffering must be effective upon installation.
  - a) Bed and Breakfast establishments in developed areas shall retain and respect the existing streetscape and character of the neighborhood. This shall include the size and massing of structures, the relationship of buildings to the street and the use and treatment of front yard areas and shall meet the minimum requirements of Chapter 2, Section 2-1 – Environmental – Buffer Areas;
  - b) A buffer area shall be established between bed and Breakfast establishments and any abutting single-family or two-family dwellings. Buffering shall be sufficient to minimize any kind of potential nuisance, such as, but not limited to, headlights, noise, storage areas or waste collection and disposal areas. The buffering shall consist of landscaping, fencing, grading or a combination of features to the satisfaction of the Planning Board. The buffer area must be effective upon installation;
  - c) All off-street parking within the front yard setback shall be separated from the lot line by a buffer area. Landscaped buffer areas abutting a public street shall be a minimum of ten (10) feet in depth and shall be sufficient to limit the glare of headlights from the lot. The buffer area shall consist of landscaping, fencing, grading or a combination of features to the satisfaction of the Planning Board. The buffer area must be effective upon installation; and
  - d) All lighting must be adequately screened from view of public ways and from adjacent lots by buildings, topography, fencing or landscaping of reasonable opacity and at last four (4) feet high. Screening must be effective upon installation.
- 7) Exterior lighting shall be designed to provide only the minimum lighting necessary to ensure adequate vision, safety, and comfort in parking and service areas and to not cause glare beyond the limits of the property boundaries. Lighting shall also conform to the Village Center Performance Standards, Chapter 1, ZONING REGULATIONS, 1-9 VILLAGE CENTER DISTRICT, Subsection 2, E., Performance Standards, 13. Lighting.
- 8) No portion of exterior stairs or fire escapes shall be located on the front wall of the building facing the primary street;
- 9) Additional performance standards applicable to Inns:
  - a) Inns in developed areas shall retain and respect the existing streetscape and character of the neighborhood. This shall include the size and massing of structures, the relationship of buildings to the street and the use and treatment of front yard areas;
  - b) A buffer area shall be established between the inn and any abutting single-family or two-family dwellings. Buffering shall be sufficient to minimize any kind of potential nuisance, such as, but not limited to, headlights, noise, storage areas or waste collection and disposal areas. Buffering shall consist of landscaping, fencing, grading or a combination of features. The buffer area must be effective upon installation;
  - c) All off-street parking and lighting must be adequately screened from view of public ways and from adjacent lots by buildings, topography, fencing or landscaping of

- d) reasonable opacity and at least four (4) feet high. Screening must be effective upon installation; and
- d) Accommodations for live-in staff are permitted and not included in guest room totals.

#### SECTION 2-9 - INDEPENDENT CONSULTING AND PEER REVIEW FEES

- A. Notwithstanding any other ordinance provision to the contrary and in addition to such fees as are otherwise specified by this Code, the Town shall assess fees to cover 100 percent of its costs related to independent geotechnical, hydrologic, engineering, planning, legal, and similar professional consulting services. Such fees shall be subject to the following limitations:
  - 1) Such fees shall be expressly provided by ordinance;
  - 2) Such consultation shall be limited to reasonable and necessary review, as allowed by the pertinent ordinance, that exceeds the expertise of Town staff or their ability to review the application materials within the time limits otherwise required by law.
  - 3) Such fees shall be assessed only to recover costs directly associated with review of the application submitted by the applicant to whom they are assessed;
  - 4) Such fees shall be reasonable in amount, based upon the consulting time involved and the complexity of the review;
  - 5) The results of the consultation for which such fees are assessed shall be available for public review, but such results shall be deemed to have been made solely for the benefit of the Town of Gorham and shall remain its property; and
  - 6) Such fees shall be assessed for the privilege of review and shall be payable without regard to consultation results or the outcome of the application.
- B. An escrow account shall be established with the Town by the applicant to guarantee payment in advance of actual fees for peer review pursuant to this Section. The original deposit shall be an amount specific to the application, as accorded elsewhere in this Code. It is the duty of the Town Planner to notify the applicant and require that an additional amount be deposited whenever the balance of the account is drawn down by 75 percent of the original deposit. Any excess amount deposited with the Town in advance will be promptly refunded to the applicant after receipt of as-built record drawings.
- C. Prior to the issuance of a building permit or certificate of occupancy by the Code Enforcement Officer, all fees assessed hereunder must be paid in full.

## SECTION 2-10 – PROVISION OF UTILITIES

### SECTION 2-10A – PROVISION OF UNDERGROUND UTILITIES

- A. Underground utilities shall be required for all newly constructed streets and for any new development requiring Subdivision, Private Way, and/or Site Plan Approval.
- B. The Planning Board may waive the requirement for provision of underground utilities for nonresidential projects including large scale energy consumers and/or producers where underground installation will create an undue burden based on natural features or resource constraints, as determined by the Town Engineer.

### SECTION 2-10B – PROVISION OF PUBLIC WATER SUPPLY

It is the policy of the Town of Gorham to require the extension of the public water supply system to serve new development to the extent that such extensions are feasible and economically viable. The provisions of this section identify when public water supply must be used and/or the public water system extended to serve the use of land or development activity.

#### A. Required Provision of Public Water Supply

Unless exempted by the Planning Board in accordance with D. below, any new principal building for nonresidential use for which a building permit is issued after November 10, 2004, or any new principal building in a subdivision that was approved after November 10, 2004 and that had not had substantive Planning Board review as of November 10, 2004, , shall be connected to, and shall utilize, the public water system, if the parcel(s) on which such development occurs is located, in whole or in part, in any of the following zoning districts:

- 1. The Urban Residential District
- 2. The Village Centers District
- 3. The Urban Commercial District
- 4. The Office Residential District
- 5. The Narragansett Development District
- 6. The Black Brook and Brackett Road Special Protection District

#### B. Conditional Provision of Public Water Supply

Unless exempted by the Planning Board in accordance with D. below, any new principal building for nonresidential or residential use (or group of buildings that is part of the same project) for which a building permit is issued after November 10, 2004, that has a design sewage flow based upon the Maine State Plumbing Code of more than two thousand (2000) gallons per day or that is required to be provided with a fire protection sprinkler system in accordance with fire protection codes or town ordinances, or any subdivision approved after November 10, 2004 and that had not had substantive Planning Board review as of November 10, 2004, that will allow for the construction of six (6) or more dwelling units or one or more principal buildings requiring site plan review, shall be connected to, and shall utilize, the public water system, if the parcel upon which the development is located is within three thousand (3000) feet of a Portland Water District water main as measured along existing or proposed public rights-of-way from the existing main to the nearest corner of the parcel, and the parcel is located, in whole or in part, in any of the following zoning districts:

- 1. The Suburban Residential District
- 2. The Roadside Commercial District
- 3. The Commercial-Office District
- 4. The Industrial District
- 5. The Rural District

#### C. Provision for the Orderly Extension of the Public Water System

The Planning Board may require that a subdivision or a building subject to site plan review but not covered by A. or B. above, extend and/or utilize public water supply provided by the

Portland Water District if the Board determines the provision of public water to this project is necessary for the orderly extension of the public water system or for the development of the area in accordance with the Town's adopted Comprehensive Plan, and that such extension will not be financially unreasonable based upon the methodology set forth in subsection E.

D. Exemption from Public Water Supply Requirements

The Planning Board shall, by formal vote, exempt a development from the requirement to extend and/or use public water supply if it finds that any one of the following conditions is met:



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1. That the Portland Water District has certified, in writing, that the District's water system cannot provide adequate service for the project including provisions for fire protection sprinkler systems without a major investment in the District's facilities that the District is not prepared to make in a timely fashion, or
2. That the cost of providing public water service for the project is unreasonable given the anticipated benefit. The cost of providing public water service for a residential use or subdivision shall be deemed to be unreasonable if the Public Water Cost Per Unit (PWCU) exceeds the Maximum Private Water Cost Per Unit (MPWCU) based upon the methodology set forth in subsection E. The cost for providing public water service for a non-residential use or subdivision shall be deemed to be unreasonable if the estimated cost is more than twice the cost of an equivalent private water supply system including provisions for fire protection water supplies based upon the methodology set forth in subsection E, or
3. That the special provisions for utilizing private ground water supply in the Black Brook and Brackett Road Special Protection District will be met.

E. Determination of Unreasonable Cost

If a property owner or developer requests an exemption from the requirement to provide public water supply based upon the cost of providing public water supply, he/she shall submit an analysis of the estimated cost of providing public water service versus the cost of providing private water supplies.

The analysis shall be based upon the proposed development scenario as if the entire lot or parcel will be developed/subdivided and there is no potential for future additional development. The Planning Board may require that the analysis be based upon a full build-out scenario for the parcel that assumes that the entire parcel will be developed based upon the allowed zoning density with public water and cluster development, if appropriate, taking into consideration site constraints and town regulations. If only a portion of the lot or parcel is being proposed to be developed/subdivided, the analysis shall be based upon a full build-out scenario for the parcel that assumes that the entire parcel will be developed and that the area not currently proposed for development will be developed based upon the allowed zoning density with public water and cluster development, if appropriate, taking into consideration site constraints and town regulations. The development scenario shall be submitted to the Town Planner and shall be subject to the Planner's and Planning Board's approval as a reasonable development scenario for the parcel.

1. Residential Developments -- The cost of providing public water service for a residential use or subdivision shall be deemed to be unreasonable if the Public Water Cost Per Unit (PWCU) exceeds the Maximum Private Water Cost Per Unit (MPWCU) based upon the following methodology:

Step1. Determine the PUBLIC WATER COST PER UNIT (PWCU) based upon the following formula:

$$PWCU = (((((SL \times \$75) + (NL \times \$40))/UN) + \$1,425) \times CCIF) + (((LDG) \times CCIF) + EX)/UN)$$

Where: SL = the lineal feet of new water main in an existing street,  
 NL = the lineal feet of new water main in a proposed street or right-of-way,

UN = the number of units in the development to be served,

CCIF = Construction Cost Inflation Factor

LDG = the estimated current cost for ledge trench at \$20 per lineal foot times the estimated number of feet of ledge trench or other estimate of

ledge removal cost approved by the Planning Board based upon field knowledge/documentation provided by the applicant  
EX = the estimated current cost for any extraordinary costs for the water service such as bridge crossings

and \$75 is the typical cost per foot for a water main in an existing street, \$40 is the typical cost per foot for a water main in a new street or right-of-way, and \$1,425 is the typical average cost for a house service, and

CCIF = ENR CCI Current/ENR CCI 5-04 where ENR CCI Current is the ENR Construction Cost Index for the month in which the calculation is made as published in ENR (Engineering News-Record) magazine and ENR CCI 5-04 is the ENR Construction Cost Index for May 2004

Step 2. Determine the MAXIMUM PRIVATE WATER COST PER UNIT (MPWCU) based upon the following formula

$$\text{MPWCU} = ((\$5,500 \times 2) + \$5,000) \times 1.1 \times \text{CCIF}$$

Where: CCIF = Construction Cost Inflation Factor, and \$5,500 is the typical developer cost for a well and \$5000 is the typical cost for residential sprinkler system.

Step 3. Compare the calculated PWCU to the calculated MPWCU to determine if providing public water supply is reasonable.

2. Non-Residential Developments -- The cost for providing public water service for a non-residential use or subdivision shall be deemed to be unreasonable if the estimated cost for the public water supply is more than twice the cost of an equivalent private water supply system including provisions for fire protection water supplies. The analysis shall be prepared by a Maine licensed professional engineer based upon documented construction costs and reviewed and approved by the Portland Water District unless this requirement is waived by the Planning Board based upon the scale or nature of the development.

The cost for supplying public water shall include the estimated cost of any water main extensions and required upgrades to existing facilities as well as the cost for providing local water mains and services within the project and shall be reduced by any cost sharing by the Water District, any impact fee revenues available to fund the project, and any other potential sources of outside funding. In evaluating the reasonableness of providing public water service, the Planning Board shall consider the potential for cost sharing with any approved developments or any projects for which a pre-application or application has been filed. The cost for private water supplies shall include the cost for the private supplies, services, and any provisions for fire protection required by this Code or the fire protection or building codes.

#### F. Responsibility and Standards for Extensions of the System

If a parcel or lot proposed for development or subdivision is required to be connected to, and utilize, the public water system, and a public water main is not available adjacent to the parcel or lot to provide the service, the owner or developer of the parcel or lot shall be responsible for extending a public water main within an adjacent public street or other public right-of-way approved by the Town Council to provide water service to the proposed building or subdivision at his/her cost. The extension shall be designed by a Maine licensed Professional Engineer, shall meet the design and construction standards of the Portland Water District, shall be constructed at the property owner's or developer's expense, shall be inspected in accordance with the requirements of the Water District, and shall be transferred to the Portland Water District upon completion.

Any water main extension undertaken to comply with the requirements of this section shall include the installation of fire hydrants in accordance with the standards of the Gorham Fire Department and fire protection codes.

G. Town Council Waiver of Public Water Supply Requirements

The Town Council may waive the requirement for the use or extension of the public water system if the Council finds that: 1) the cost of providing public water will be an economic hardship for the property owner when compared to the benefits of such an extension, and 2) that the granting of such a waiver shall not adversely impact the orderly extension of the public water supply system nor create unnecessary fire protection risks for the property owner or adjacent properties.

A request for a waiver of the public water supply requirement shall be made in writing to the Town Manager within thirty (30) days of the Planning Board's determination that public water shall be used/extended and prior to the approval of the final plan by the Planning Board. The request shall set forth the specific hardship that will result from compliance with the requirement.

In granting a waiver, the Town Council may impose conditions relative to the future use and development of the property or the provision of private fire protection water supplies. If a waiver is granted, any conditions imposed by the Council shall become conditions of approval of the plan if the plan is approved by the Planning Board and the conditions shall be listed on the approved plan.

H. Areas Subject to Impact Fees

Where the extension of public water service has occurred or will occur prior to the approval of the development by the Planning Board, the applicant shall substitute the water supply portion of the impact fee per unit for the cost per unit of the water main extension covered by the impact fee in calculations under this Section. The owner or developer will remain responsible for the payment of the public water impact fee as well as being subject to any applicable requirements of this Section.

## SECTION 2-11 - FIRE PROTECTION WATER SUPPLY

- A. Purpose. The purpose of this Section is to establish standards for the installation of fire protection in subdivisions where public water supplies exist or could feasibly be extended, as established under Chapter 2, Section 2-10.
- B. Applicability. This Section applies to all applications for new subdivisions and for the expansion of existing or already approved subdivisions.
- C. Standards. Where a public water system and hydrants are available for fire protection, a developer shall install a fire protection water supply that meets the following standards:
  - 1) Fire Hydrants shall be provided at a maximum distance spacing of 1,500' as measured along the road centerline. The specific location of the fire hydrants shall be approved by the Gorham Fire Chief prior to installation.

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## SECTION 2-12 – KEEPING OF URBAN FARM ANIMALS

The purpose of this section is to provide for the keeping of domestic farm animals and livestock in the Suburban Residential, Urban Residential, and Urban Residential Expansion Districts. This use may be allowed as a permitted use in the Urban Residential (UR), Urban Residential Expansion (UR EXP), and Suburban Residential (SR) Districts, provided that the following standards are met:

1) Number of Farm Animals allowed:

a. Chickens

- (1) Six (6) chickens may be kept on a lot with a lot area less than 20,000 square feet.
- (2) Up to ten (10) chickens may be kept on a lot with a lot area between 20,000 square feet and 40,000 square feet.
- (3) Twenty-five (25) chickens may be kept on a lot with a lot area greater than 40,000 square feet.
- (4) On lots with a lot area less than 6 acres no roosters shall be kept.
- (5) On lots with a lot area less than 40,000 square feet, all chickens must be kept in an enclosure or fenced area at all times. This requirement can be met through the use of a mobile enclosure.

b. Small animals and fowl (such as sheep, goats, pot-belly pigs, ducks, that typically weigh not more than 100 pounds at maturity, geese and turkeys, other than domestic pets and chickens).

- (1) Up to two (2) animals may be kept on a lot with a lot area of a minimum of 40,000 square feet.
- (2) For each additional 20,000 square feet in addition to 40,000 square feet, one (1) additional small animal may be kept.

c. Large Animals (such as horses, cows, hogs, or llamas that typically weigh more than 100 pounds at maturity).

- (1) Up to two (2) animals may be kept on a lot with a lot area of 100,000 square feet.
- (2) For each additional 50,000 square feet in addition to 100,000 square feet, one (1) additional large animal may be kept.

When calculating the number of permitted animals on a given lot, the lot area utilized to determine the number of animals allowed for one animal category may not be utilized when calculating the number of permitted animals allowed for a different animal category. Structures and pen or pasture fencing erected for the housing of farm animals other than domestic pets must meet the following requirements:

- a. Structures shall meet the setback requirements for the zone in which it is located.
- b. Structures and pens shall not be located in the front yard.



- c. The types of roofing and siding must take into account existing conditions in the neighborhood.
  - d. Fencing shall be erected to confine the animals to an established area of the property.
  - e. Structures and pen or pasture fencing shall be constructed and maintained as to prevent the escape of the animals and provide appropriate protection from the elements.
  - f. All structures and pen or pasture fencing shall be of sufficient size to provide adequate and proper housing for those animals kept therein.
- 3) Keeping of animals: Each animal shall be maintained in a good healthy condition in a manner not causing injury to the health of any animal or the health and safety of any person.
- 4) Waste storage and removal: All animal wastes shall be properly disposed of so as not to jeopardize the public health, safety, or welfare, or create detrimental effect of the environment or on neighboring properties and must meet the following requirements:
- a. All manure and other waste must be stored in a fully enclosed structure or in covered airtight containers and must be periodically removed from the property or composted so there is no accumulation of waste material. No more than three (3) cubic yards of manure or waste shall be stored on site.
  - b. Structures, pens, and pastures shall be kept clean and dry, and waste shall be treated and handled in such a manner to control flies, odor, and rodents.
  - c. Odors from the keeping of farm animals, including but not limited to waste storage, shall not be perceptible at the property boundaries.

## SECTION 2-13 – WIND ENERGY SYSTEMS

### Section 2-13.1. Authority.

2-13.1.1 This Ordinance is adopted pursuant to Title 30-A, M.R.S.A., Section 3001.

### Section 2-13.2. Purpose.

2-13.2.1 The purpose of this Ordinance is to provide for the construction and operation of Wind Energy Systems, subject to reasonable conditions that will protect the public health, safety and welfare.

### Section 2-13.3. Conflict with Other Ordinances or Laws.

2-13.3.1 If there is a conflict between the provisions of this ordinance and another ordinance or law, the more stringent provisions shall apply.

### Section 2-13.4. Severability.

2-13.4.1 The invalidity of any part of this Ordinance shall not invalidate any other part of this Ordinance.

### Section 2-13.5. Permit Requirements

2-13.5.1 Wind Energy Systems require a building permit from the Code Enforcement Office.

2-13.5.2 Prior to issuance of a building permit for a Type 1 wind energy system over 100' in height or a type 2 wind energy system, an Administrative Review Application shall be submitted to the Site Plan Review Committee for review and approval. The applicant shall follow the procedural requirements of Chapter 4 Site Plan Review, Section 4-7 – Procedures for an Administrative Review Development.

2-13.5.3 Expiration. A permit issued pursuant to this Section shall expire if the Wind Energy System is not installed and functioning within eighteen (18) months from the date the permit is issued.

### Section 2-13.6. Definitions.

2-13.6.1 Meteorological Tower (MET Tower). Meteorological Tower (MET Tower) means a tower used for the collection and measurement of wind data that supports various types of equipment, including, but not limited to, anemometers, data recorder, solar power panels, and temporary electrical power and battery storage power. MET Towers are erected on a temporary basis primarily to collect data relevant to the siting of a Small Wind Energy System.

2-13.6.2 Nacelle. The frame and housing at the top of the Tower that encloses the gearbox and generator.

2-13.6.3 Owner. The individual or entity that intends to own and operate the small wind energy system in accordance with this ordinance.

2-13.6.4 Rated Nameplate Capacity. The maximum rated output of electric power production equipment. The manufacturer typically specifies this output with a "nameplate" on the equipment.

2-13.6.5 Rotor Diameter.

- a. Horizontal Axis Wind Energy Systems: The cross sectional dimension of the circle swept by the rotating blades.
- b. Vertical Axis Wind Energy Systems: The diametrical dimension of the circle swept by the furthest outreaching part of the blade.

2-13.6.6 Tower. Structure that supports a wind turbine.

2-13.6.7 Turbine Height. The distance measured from the surface of the Tower foundation to the highest vertical point of any turbine rotor blade.

2-13.6.8 Type 1 Wind Energy System. A wind energy system having a maximum generating capacity of 100 kw.

2-13.6.9 Type 2 Wind Energy System. A wind energy system generating more than 100kw which does not require a State permit issued by the Maine Department of Environmental Protection.

2-13.6.10 Type 3 Wind Energy System. A wind energy system generating more than 100kw which requires a State permit issued by the Maine Department of Environmental Protection.

2-13.6.11 Wind Turbine. A system for the conversion of wind energy into electricity, which is comprised of a generator, nacelle, rotor, and transformer.

#### Section 2-13.7. Permitted Uses.

2-12.7. Type 1 Wind Energy Systems are considered Accessory Uses and Structures and are permitted uses on any lot that is a minimum of two (2) acres in size in all zones in the Town of Gorham. The 2 acre requirement may be satisfied through a combination of lot size and a permanent easement from an abutting land owner.

2-13.7.2 Type 2 Wind Energy Systems are a permitted use in the Rural and Rural-Manufactured zones.

2-13.7.3 Type 3 Wind Energy Systems are not a permitted use.

2-13.7.4 Roof-mounted, building integrated, building-mounted or architectural wind systems shall be permitted in all zones subject to all applicable Federal, State, and Local laws and regulations, and shall be permitted to have a maximum height of (fifteen) 15 feet above the maximum allowed building height in the zones, as defined in the Town of Gorham's Land Use and Development Code.

#### Section 2-13.8. Non-Conformance Exception.

2-13.8.1 Wind Energy Systems that are constructed and installed in accordance with the provisions of this Section shall not be deemed to constitute an expansion of a nonconforming use or structure.

#### Section 2-13.9. Performance Standards.

Wind Energy Systems shall be permitted in appropriate zoning districts subject to the following requirements:

##### 2-13.9.1 Height

- a. The maximum Turbine Height shall be one hundred (100) feet for Type 1 Wind Energy Systems in the Little Falls Village Center, Gorham Village Center, Urban Residential and Office Residential Zones. There are no other height restrictions in

- b. other zones, provided the Wind Energy System meets the setback requirements in Section 9.2 and all other Federal and State regulations.
- c. The applicant shall provide evidence that the proposed height does not exceed the height recommended by the manufacturer or distributor of the Wind Energy System.

2-13.9.2 Setbacks.

- a. The Towers for a Wind Energy System shall be set back a distance equal to 1.5 times the maximum Turbine Height, measured from the center of the base of the tower, to the following:
  - 1. All property lines, unless appropriate easements are secured from adjacent property owners.
  - 2. All inhabited or inhabitable residential structures, other than those owned or inhabited by the owner.
  - 3. All overhead public utility and telephone lines, unless written permission is granted by the affected utility or Telephone Company.
  - 4. Public and private road right-of-ways, unless written permission is granted by the owner(s) with jurisdiction over said right-of-way(s).
  - 5. Other right-of ways, including railroads, utility corridors, etc.
  - 6. Telecommunications towers and water towers.
- b. The Tower of any Wind Energy System's wind tower shall be set back from the Tower of any other Energy Systems' wind towers a distance equal to 1.5 times the rotor diameter.
- c. In no case shall Wind Energy Systems be permitted within the front, side, or rear setback of any property.
- d. Guy cables for Wind Energy Systems shall be setback at least 10 feet to any property line, unless appropriate easements are secured from adjacent property owners. Guy cables must have guy guards/markers with a minimum height of 8 feet as measured along the guy.

2-13.9.3 Access and Safety.

- a. The minimum distance between the ground and any part of the rotor blade shall be 15 feet.
- b. The tower's climbing apparatus shall be no lower than 15 feet from the ground.
- c. All access doors to Wind Energy System towers and electrical equipment shall be clearly labeled as such and shall be locked except during maintenance.

2-13.9.4 Lighting. Wind Energy Systems shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority.

2-13.9.5 Electrical. Electrical controls and control wiring shall be wireless or underground except where necessary to connect the Wind Energy System to the transmission or distribution network, adjacent to that network, and shall comply with the latest adopted versions of the NFPA 70 (NEC).

2-13.9.6 Design and Aesthetics.

- a. Wind Energy System towers shall be monopole (freestanding, or guyed), unless the Site Plan Review Committee finds that the proposed lattice tower(s) will be significantly screened by existing trees from view of abutting property owners and public rights of way.
- b. Wind turbines and towers shall have a color or finish that is non-reflective and non-obtrusive (galvanized steel, brushed aluminum, or white) as was originally applied by the manufacturer, unless otherwise required by the Federal Aviation Administration or another governmental agency.
- c. At Wind Energy System sites, the design of buildings and related structures shall use materials, colors, screening and landscaping that will blend the Wind Energy System to the natural setting and existing environment and structures that are consistent with Section 2-13.9.9.
- d. Wind Energy Systems shall not be used for displaying any advertising or signs, except for the reasonable identification of the manufacturer of the Small Wind Energy System that may be placed on the nacelle (cover of the electrical generator) of the Small Wind Energy System or an unobtrusive nameplate.

2-13.9.7 Noise. The operation of all Energy Wind Systems shall comply with the Town of Gorham's Noise Ordinance of the Land Use and Development Code and include compliance with tonal sounds as described below.

- a. TONAL SOUND: a tonal sound exists if, at the property boundary of the proposed WES – including easements as applicable – the one-third octave band sound pressure level in the band containing the tonal sound exceeds the arithmetic average of the sound pressure levels of the two continuous one-third octave bands by 5 dB for center frequencies at or between 500 Hz and 10,000 Hz, by 8dB for center frequencies at or between 160 and 400 Hz, and by 15dB for center frequencies at or between 25 Hz and 125 Hz.
- b. If one or more of the sounds of routine operation of the development are found to be tonal sounds, 5dBA shall be added to the measured hourly  $L_{Aeq}$ .
- c. The resultant adjusted A-weighted hourly equivalent sound levels shall not exceed the sound level limit (dBA) permitted in the district established by Table 1 in the Town of Gorham's Noise Ordinance of the Land Use and Development Code.
- d. The applicant is responsible for providing sufficient evidence that the proposed Wind Energy System will comply with the noise standards of this Ordinance.

2-13.9.8 A manual and automatic braking, governing or feathering system shall be required to prevent uncontrolled rotation.

2-13.9.9 Code Compliance. A Wind Energy System shall comply with all applicable Federal, State, and Local Building and Electrical Codes.

2-13.9.10 Utility Notification and Connection. Wind Energy Systems that connect to the electric utility shall comply with Title 35-A and 65-407 Public Utility Commission's Rule 313, "Consumer Net Energy Billing."

Section 2-13.10. MET Towers.

2-13.10.1 MET towers shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a Wind Energy System.

- 2-13.10.2 MET towers are permitted as a temporary use to remain installed for no more than 4 years following permit approval.

Section 2-13.11. Removal of Unsafe/Abandoned Wind Energy Systems.

- 2-13.11.1 Unsafe. Any Wind Energy System found to be unsafe by the Code Enforcement Office shall be repaired by the owner to meet current Federal, State, and Local Safety Standards or shall be removed within six (6) months.
- 2-13.11.2 Abandonment. A Wind Energy System that is not used for a consecutive twelve (12) month period shall be deemed abandoned. The Code Enforcement Office shall notify the owner by registered mail and shall provide 30 days for a response. In such a response the landowner shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action.
- 2-13.11.3 After receiving the response or in the absence of a response, if the Code Enforcement Office still determines the Wind Energy System is abandoned, the owner of a Wind Energy System shall remove the wind turbine from the tower at the Owner's sole expense within 120 days from receipt of the original notice from the Code Enforcement Office.

## SECTION 2-14 – DOG KENNEL STANDARDS

The purpose of this section is to provide standards to ensure that Dog Kennels are safe and maintained in a clean and sanitary manner and do not create a nuisance to surrounding properties. The Dog Kennel owner shall submit a fully dimensioned and detailed plan illustrating all structures and areas that will be used in the operation of the Dog Kennel showing compliance with the Town's Land Use and Development Code. The Code Enforcement Office may conduct an inspection as needed to verify that the Dog Kennel is operating as approved and in conformance with this Land Use and Development Code. A Dog Kennel shall meet the following standards:

1. Shall be located on lots not less than three (3) acres in area.
2. Shall not have more than ten (10) dogs at any given time.
3. Dogs shall be housed within a permanent structure/outbuilding between the hours of 7:00 p.m. and 7:00 a.m.
4. Any structure used for housing the dogs and/or containment area shall be:
  - a. Designed, constructed and located on the lot in a manner that will minimize the negative impact upon abutting properties.
  - b. Set back a minimum of one hundred (100) feet from all property lines.
  - c. Structurally sound and maintained in good repair at all times.
  - d. Well ventilated so as to provide constant fresh air.
  - e. Maintained at a comfortable temperature.
  - f. Maintained in a clean and sanitary condition at all times. Any animal excrement shall be removed at least twice daily from the dog pens and runs. Each pen shall be washed down with water and disinfectant cleaner as often as necessary to maintain a safe and sanitary condition for the dogs, but in no event less than once each day.
5. Any structure used for housing the dogs shall have its floor constructed of cement, asphalt or a similar material.
6. Outside containment areas shall be enclosed with fencing with a height of no less than eight (8) feet.
7. All dog pens shall provide sufficient room for the dogs housed therein to turn about freely, to stand erect, and to lie down in a natural position.
8. Any storage container used for holding waste that includes animal excrement shall be kept tightly covered at all times and emptied at least once every two (2) days. Such container shall be located in accordance with the setback requirements for structures as stated in this section.

9. All dogs shall have access to shelter to protect them from the weather.
10. The dogs shall be provided with sufficient fresh water and wholesome food so as to maintain their health. Food and water containers shall be kept clean and sanitized.



## SECTION 2-15 – HOME OCCUPATION STANDARDS

Home occupations shall conform to the following requirements:

1. The use of a dwelling unit for a home occupation shall be clearly incidental and subordinate to its use for residential purposes.
2. A home occupation may not alter the residential character of the structure, neighborhood or change the character of the lot from its principal use as a residence.
3. The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto with the exception of farm/roadside stands which are allowed to be carried on in a separate structure.
4. Not more than two people outside the family shall be employed in the home occupation.
5. There shall be no exterior display, no exterior sign (except as expressly permitted by the district regulations of this chapter), no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.
6. No nuisance, offensive noise, vibration, smoke, dust, odors, heat, or glare shall be generated. The noise standard shall comply with the standards identified under Chapter 4, Section 4-9, and T. Noise.
7. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in the neighborhood or generate more than 10 vehicle trips per day.
8. Off-street parking shall meet the standards set forth in Section 2-2 of this Chapter. If additional parking spaces are provided, they shall be located to the rear or side yard of the principal structure but not within the yard setbacks. Off-street parking lots with three (3) or more spaces shall be buffered from abutting residences.
9. The sale of products shall be limited to those which are crafted, assembled or substantially altered on the premises, to catalog items ordered off the premises by customers, and to items which are accessory and incidental to a service which is provided on the premises.
10. The home occupation shall not utilize more than 20% of the total floor area of the dwelling unit or 576 square feet, whichever is more, with the exception of home day care facilities which may utilize up to 50% of the dwelling unit in addition to the use of the exterior of the property for State required play areas.
11. The following uses shall be allowed as home occupations as defined in Chapter 1, Section 1-5 Definitions:
  - a. Business and Professional Offices
  - b. Personal Services
  - c. Instructional Services
  - d. Repair Services
  - e. Day Care Home
  - f. Home Crafts
  - g. Construction Services
  - h. Office of a Contractor or Tradesman
  - i. Medical Marijuana Caregiver
  - j. Online Retail Sales

12. Permit required. A permit must be obtained from the Code Enforcement Department prior to commencement of the Home Occupation. As part of the permit approval, the Town's Code Enforcement Officer is authorized to limit the proposed use or require on-site improvements to minimize potential negative impacts to the neighborhood and/or roadways.
13. A home occupation shall not be interpreted to include the following:
  - a. Facilities for the repair of motor vehicles
  - b. Day care center
14. In addition to the home occupation standards listed above, the home occupation uses listed below shall meet the following requirements:
  - a. Instructional Services
    - 1) Instructional services involving a maximum of four students at a time are permitted. In the case of musical instructions, no more than two students at a time shall be permitted.
  - b. Day Care Home
    - 1) Prior to the permit approval of the use by the Code Enforcement Office, the applicant must obtain a license from the State of Maine Department of Child and Family Services.
  - c. Construction Services
    - 1) Limited to two of the following: pick-up trucks, vans or box trucks and one trailer parked/stored outside.
    - 2) No outside storage of materials.
    - 3) Material storage buildings/space limited to 20% of the size of the total area of the dwelling unit.
  - d. Repair Services
    - 1) The repair of any small engines or equipment with any type of gas, diesel, oil, or natural gas engine is not permitted.
  - e. Medical Marijuana Caregivers
    - 1) All growing and related growing supplies are required to be stored inside and within the 20% of the total floor area of the dwelling unit or 576 square feet, whichever is more.
    - 2) No outside cultivation or storage of marijuana, marijuana products, or related supplies is permitted. There shall be no exterior visibility or evidence of marijuana cultivation outside the private residence, including but not limited to, any marijuana plants, equipment used in the growing and cultivation operation, and any light emanating from cultivation lighting.
    - 3) The odor generated from marijuana cultivation or harvesting shall not be reasonably detectable from any adjacent lot, public right-of-way, or outside of the grower's lease area. The marijuana cultivation shall provide for adequate ventilation so as to prevent pesticides, insecticides or other chemicals used in the cultivation from being dispersed or released outside the building or lease line.
    - 4) The medical marijuana caregiver shall obtain a State of Maine conditional license prior to operating in the Town of Gorham.
15. In addition to the home occupation standards 1 through 14 listed in this section, the home occupation use for medical marijuana caregivers must also meet the following requirements:

- a. Medical marijuana caregivers may only receive or otherwise serve patients, or other vendors, between the hours of 10:00 a.m. and 6:00 p.m., Monday through Friday.
- b. All growing and related growing supplies are required to be stored inside and within 20% of the total floor area of the dwelling unit occupied by the home occupation.
- c. No outside cultivation or storage of marijuana, marijuana products, or related supplies is permitted. There shall be no exterior visibility or evidence of marijuana cultivation outside the private residence or within a building or other accessory structure, including but not limited to, any marijuana plants, equipment used in the growing and cultivation operation, and any light emanating from cultivation lighting.
- d. The odor generated from marijuana cultivation or harvesting shall not be reasonably detectable from any adjacent lot, public right-of-way, or outside of the growers' leased area. The marijuana cultivation shall provide for adequate ventilation so as to prevent pesticides, insecticides or other chemicals used in the cultivation from being dispersed or released outside the building or lease line.
- e. The medical marijuana caregiver shall obtain and maintain an active and valid medical marijuana caregiver registration with the State of Maine prior to operating in the Town of Gorham.
- f. The grow plant canopy size shall be capped at a maximum of 500 sq. ft.
- g. All cultivation areas shall meet all applicable local, state, and federal building, electrical and fire codes.
- h. A property owner's written consent to cultivate marijuana is required for growers located on lots/leased areas not owned by them. An owner of a residential structure can prohibit the cultivation of marijuana on his or her property.
- i. The cultivation areas shall be locked when not being attended to by the grower of the marijuana.
- j. The following are prohibited as part of a medical marijuana caregiver home occupation:
  - 1. The home extractions of marijuana concentrate using hazardous substances.
  - 2. The manufacturing, testing, or retail sale of marijuana or marijuana products intended for adult (and not medical) use.
  - 3. The establishment or operation of a medical marijuana caregiver retail store, as that term is defined in 22 M.R.S.A. § 2422(1-F)
  - 4. Any other activity that is not authorized for medical marijuana caregivers under applicable State law, in 22 M.R.S.A. § 2423-A(2).
- k. The purpose of this Subsection 12 is to regulate both new and existing medical marijuana caregivers operating as home occupations within the Town. These regulations are intended to protect the public health, safety and welfare, to ensure compatibility with the surrounding neighborhood, and to minimize any adverse impact of such caregiver operations on adjacent and nearby properties.

#### 1. Application

The operational requirements of Subsection 2-15 shall apply to all existing medical marijuana caregivers operating as home occupations on the effective date of this ordinance as well as new caregiver operations. To qualify as an existing medical marijuana caregiver operating as home occupation, the operation must be a lawful use under the Zoning Ordinance as of May 6, 2021, must have been in operation at some time over the five (5) years immediately preceding May 6, 2021, and must have been in full compliance with all applicable Town ordinances during all such times of operation.

#### 2. Registration Requirements

Within one hundred eighty (180) days of May 6, 2021, all medical marijuana caregivers operating as home occupations and existing as of that date shall be registered with the Code Office and submit the following:

- (a) Initial registration fee of \$250.00

- (b) Names and addresses of the current owner of the property and of the medical marijuana caregiver, and a copy of the deed or rental lease if the medical marijuana caregiver is not the property owner
  - (c) Evidence that the medical marijuana caregiver's operation was in existing operation as defined above, including, without limitation, the State of Maine registered caregiver license and any other State-issued licenses, including any food establishment license; and
  - (d) Evidence of the location of the medical marijuana caregiver's growing operation on the property, which shall include a description of the canopy size, setbacks of the growing area from the property line boundaries, and actions taken to meet the relevant Home Occupation Standards as identified below.
3. Operational Requirements for New and Existing Medical Marijuana Caregivers
- Unless otherwise expressly provided, the foregoing requirements contained in this Subsection 12 apply to all medical marijuana caregivers operating as home occupations; however, any existing medical marijuana caregiver operating as a home occupation and lawfully in operation at the effective date of this ordinance which does not comply with these operational requirements shall be grandfathered with regard to such deficiencies except that there shall be no grandfathered rights as to Chapter 2, Section 2-15 Home Occupation Standards, Subsection 12(a) through 12(d) and 12(f) through 12(i).

## SECTION 2-16 – MOBILE VENDING UNIT

Mobile vending units shall conform to the following requirements:

1. Mobile Vending Units shall be licensed by the Maine Department of Health and Human Services (DHHS) and operate in compliance with all applicable DHHS regulations relating to eating and lodging places, as may be amended from time to time.
2. Mobile Vending Units shall comply with all applicable provisions of the Town of Gorham Victualer's Ordinance, as may be amended from time to time.
3. The operator of a Mobile Vending Unit shall obtain from the Code Enforcement Officer a mobile vending unit food service permit, which shall be renewed annually, and pay the annual permit fee in such amount as the Town Council may from time to time establish by Council order. In order to issue a mobile vending unit food service permit, the Code Enforcement Officer shall ensure that the Mobile Vending Unit meets the following requirements:
  - a. The placement of the Mobile Vending Unit:
    - (1) Shall not hinder vehicular traffic or cause traffic congestion on or off the site;
    - (2) Shall not hinder, or interfere with, pedestrian traffic on or off the site;
    - (3) Shall not block or otherwise hinder access to or from any private property; and
    - (4) Shall not create a nuisance for abutting properties due to the generation of undue noise, odor, fumes, dust, smoke, lights or glare.
  - b. The hours of operation for the Mobile Vending Unit shall be limited to 7:00 a.m. to 10:00 p.m.
  - c. The operator of the Mobile Vending Unit shall provide written permission from the property owner to locate the Mobile Vending Unit on said property with expectations that bathroom facilities will be available.
  - d. The Mobile Vending Unit shall comply with Chapter 2, Section 2-2. A.2. (Off-street Parking Standards).
  - e. The Mobile Vending Unit shall be prohibited from locating in the rights-of-way for Town and State roads, including on-street parking spaces, or Town sidewalks.
  - f. The operator of the Mobile Vending Unit shall make adequate provisions for solid waste disposal including, at a minimum:
    - (1) At least one (1) covered trash receptacle, thirty gallons or larger in size, shall be available to hold waste and debris. No paper, food or other wastes shall be allowed to accumulate on site.
    - (2) The waste container shall be emptied at least once per day into an approved commercial dumpster (it being emptied by a licensed waste hauler on a regular basis) or other suitable and approved means of transport away from the site. It shall be the responsibility of the operator of the Mobile Vending Unit to ensure that all wastes are handled and disposed of properly.

- g. The operator of the Mobile Vending Unit shall ensure that there is an adequate supply of potable water for the cleaning of equipment and the preparation of foods.
  - h. The operator of the Mobile Vending Unit shall ensure that there is an adequate and safe source of electrical power meeting all applicable federal, state, and local codes.
  - i. The operator of the Mobile Vending Unit shall ensure that all food supplies and other business material shall be stored within the vehicle or other container secured to the vehicle. No loose material shall be permitted outside of the vehicle.
  - j. Mobile vending units shall serve to the sidewalk or public right-of-way when parked adjacent and parallel to a Town sidewalk or public right-of-way.
  - k. No signs shall be placed on sidewalks or public rights-of-way. The placement of 1 sign with a maximum sign area of 8 sq. ft. is allowed when the mobile vending unit is open. The sign must be located within 25' of the mobile vending unit. The sign must be removed when the mobile vending unit is not in use and shall not be located to hinder safe vehicular or pedestrian traffic on or off the site.
  - l. The Mobile Vending Unit, and any vehicles or trailers used in conjunction therewith, shall be in good upkeep and provide a neat and tidy appearance.
  - m. If the Mobile Vending Unit will provide exterior seating, it shall meet the requirements of Chapter 2, Section 2-2.A.2. (Off-Street Parking Standards)
  - n. Temporary bathroom facilities, such as portable toilets, are not permitted on site for use by the operator of the Mobile Vending Unit and/or patrons of the Mobile Vending Unit.
4. Unless permanently connected to public utilities and approved by the Planning Board under the site plan provisions under Chapter 4, Mobile Vending Units shall not be left on site or displayed, or left in public view, in the location of the business during non-business hours.
5. A mobile vending unit food service permit may, after seven (7) days' written notice and public hearing, be suspended or revoked by the Code Enforcement Officer for violation of any provision of this Section. The victualer's license may be revoked or suspended by the municipal officers in accordance with the relevant provisions of the Victualer's Ordinance, as may be amended from time to time.
6. Exemptions:
- a. Mobile Vending Units at Town sponsored events are not subjected to the requirements under this ordinance but are required to have a victualer's' license.
  - b. Any property may have mobile vending units subject to the following requirements:
    - (1) The mobile vending units must meet the requirements of this section.
    - (2) The use of the mobile vending units is limited to an event for which a mass gathering permit has been issued by the Town.
    - (3) Each property is limited to a one day exemption per calendar year.
7. Drive through service are prohibited from mobile vending units.
8. In addition to the zoning districts that identify mobile vending units as a permitted use, mobile vending units are also permitted in the Little Falls area identified as a Mobile Vending Unit Overlay District shown in the map below.



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## SECTION 2-17 - ADULT-USE MARIJUANA CULTIVATION FOR PERSONAL USE

### 1. Purpose

The purpose and intent of this chapter is to regulate personal cultivation of marijuana for the grower's use on the property where the grower's residence is located. The ordinance prohibits growing for any person not living on the property where the marijuana is being cultivated, all commercial cultivation for adult-use, and the sale of "adult-use" marijuana from a residential property.

This chapter is adopted by the Town Council pursuant to 28-B M.R.S.A. § 1502(3) and the home rule authority granted to municipalities by 30-A M.R.S.A. § 3001 and the Constitution of Maine, Article VIII, Part Second.

### 2. Definitions

For the purposes of this chapter, the following definitions shall apply, unless the context clearly indicates otherwise. If a word is not defined in this chapter, the common and ordinary meaning of the word shall apply.

- a. Authorized Grower— a person twenty-one years of age or older who resides on the lot where the adult-use marijuana is being cultivated in compliance with state law.
- b. Cultivation — the planting, growing, harvesting, drying, or processing of marijuana plants or any part thereof.
- c. Indoor Cultivation — the growing of marijuana plants inside a residence or inside an accessory residential structure that has the ability to be locked when the grower is not attending to the marijuana plants.
- d. Outdoor Cultivation — the growing of marijuana plants outside in a fenced-in area. The fence shall be a minimum of 6' in height and shall be locked when the grower is not attending to the marijuana plants.
- e. Lot— a single, legal parcel of property where the grower or grower's residence(s) is/are located. Where contiguous legal parcels are under common ownership or control, such contiguous legal parcels shall not constitute a single "lot" for the purposes of this chapter.
- f. Marijuana — the leaves, stems, flowers and seeds of a marijuana plant, whether growing or not. "Marijuana" does not include industrial hemp as defined in 7 M.R.S.A. § 2231(1).
- g. Residence —a home, abode, or place where the grower is actually living.

### 3. Standards

The growing of adult use marijuana shall conform to the below requirements:

- a. There shall be no exterior visibility or evidence of marijuana cultivation outside the private residence, accessory structure, or fenced-in area from the public right-of-way or abutting properties including but not limited to, any marijuana plants, equipment used in the growing and cultivation operation, and any light emanating from cultivation lighting.
- b. The authorized grower's primary or full-time residency shall be on the lot where the marijuana is being cultivated. The residence shall include a fully functional and usable kitchen, bathroom, and bedroom areas for their intended use by the resident authorized grower, and the premises shall not be used primarily or exclusively for marijuana cultivation.



- c. Each grower on a lot is limited to grow a maximum of 3 mature plants and 12 immature plants in an area of 50 square feet. If multiple authorized growers are located on a lot, the 50 square foot area for each grower shall be separate and lockable from the other growers located on the lot. The unlimited seedlings are not required to be located within the 50 square feet of growth area but are required to be in a lockable area.
  - d. Outdoor cultivation is only allowed for lots with over 40,000 sq. ft. of lot area and which have 1 single-family dwelling.
  - e. Indoor cultivation is required for lots with multiple dwelling units.
  - f. Cultivation areas shall be set back a minimum of ~~25~~ 50' from the property line and shall not be located within any front, side, or rear yard setbacks.
  - g. That a property owner's written consent to cultivate marijuana is required for growers located on lots not owned by them. An owner of a residential structure, accessory structure, or lot can prohibit the cultivation of marijuana on his or her property.
  - h. All cultivation areas shall meet all applicable local, state, and federal building, electrical, and fire codes.
  - i. The outside or inside cultivation areas shall be locked when not being attended to by the grower of the marijuana.
  - j. A marijuana cultivation permit is required prior to commencing any marijuana cultivation by any grower(s) owning, leasing, occupying, or having charge or possession of any legal lot or premises where marijuana cultivation is proposed to occur. The marijuana cultivation permit must be obtained from the Code Enforcement Officer or his or her designee, to ensure compliance with the requirements of this chapter.
  - k. The odor generated from marijuana cultivation or harvesting at the subject property shall not be reasonably detectable from any adjacent lot or public right-of-way.
4. Permit requirements: The following information will be required with the initial permit application and subsequent permit extensions.
- a. Physical site address of where the marijuana will be cultivated.
  - b. The name of each person owning, leasing, occupying, or having charge of any legal parcel or premises where marijuana will be cultivated.
  - c. Proof of a grower's residency on the lot where the marijuana cultivation will be conducted.
  - d. Property owner's written consent to the cultivation of marijuana at the premises, if different from the grower.
  - e. Plan showing the location where the cultivation area will be located in the residence, accessory structure, and/or the lot.
  - f. Detailed explanation of how the grower will meet all the required performance standards.
  - g. Permit Duration: The permit shall be valid for 6 months and may be renewed annually for one year durations upon determination that the standards and conditions set forth under these standards are met. The permit may be denied or not renewed unless satisfaction of the minimum requirements of this chapter can be demonstrated.

- h. Enforcement: Violations of this chapter shall constitute a public nuisance and may be enforced by the provisions of this chapter or any other applicable law. Violations of this ordinance shall be subject to fines and penalties contained in 30A MRSA Section 4452.
- 5. Prohibited: The following is prohibited as part of the adult-use marijuana growing for personal use.
  - a. The home extractions of marijuana concentrate using hazardous substances.
  - b. The cultivation, manufacturing, testing, retail sale, gifting, and/or growing of marijuana for adult use by someone not a resident of the lot.

## SECTION 2-18 – OUTDOOR DINING

1. Outdoor dining components must allow safe passage of pedestrian traffic. A continuous, unobstructed sidewalk passage of four (4) feet from the outer boundary of the seating area to the curb must be maintained. If the sidewalk passage is not straight due to existing obstacles, then additional width may be required. The Fire Department shall review the plan to see if four (4) feet is adequate for sidewalk maintained width.
2. Parking spaces may be converted for outdoor dining. Up to thirty-three percent (33%) of the existing on-site parking spaces may be utilized if off-site or on-street parking is available within 0.25 miles or 1,320 feet of the front door to the restaurant. For existing businesses, this shall be reviewed by staff as a de minimis change to the existing site plan.
3. Request for the use of adjacent on-street parking spaces or right-of-way for outdoor dining installations requires Town Manager and, if applicable, Maine DOT review and approval.
4. Egress must be maintained free of obstruction.
5. Permanent fixtures, such as awnings, may require a building permit.
6. Umbrellas do not require a permit. Umbrellas must be secured and maintain height clearance for sidewalk passage. Umbrellas may have embroidered or screen-printed logos advertising products.
7. Umbrellas and awnings must be kept in good condition without having tears, holes, be extensively faded, and/or in a state of disrepair.
8. Fencing and barriers do not require a permit. Stanchions and ropes are encouraged. If barriers such as fencing are proposed, they must be free-standing, shall not exceed 42" in height and may not include commercial signage. Physical attachments to a building are not allowed. Sectional fencing is allowed with a high degree of visual transparency (at least 50% open).
9. Temporary tents or structures may be used. Building permits for temporary structures are required.
10. The applicant/owner is responsible for keeping the outdoor seating area clean.
11. No food shall be prepared in the designated outdoor dining area, unless the proper State permit is obtained.
12. Music may be played. However, the standards of Chapter 2, Section 2-1 Noise Abatement and Special Amusement Ordinance shall apply.
13. Flowers, planters and exterior string lighting are allowed. Lights may not be blinking, running, or otherwise activated.